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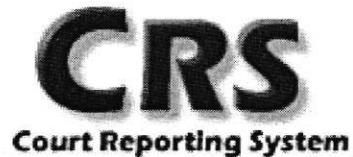
## First Judicial District of Pennsylvania

51CR00047682007

*John In*

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*Trial (Jury) Volume 1  
September 11, 2008*



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*First Judicial District of Pennsylvania  
100 South Broad Street, Second Floor  
Philadelphia, PA 19110  
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[1] IN THE COURT OF COMMON PLEAS  
[2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
[3] CRIMINAL TRIAL DIVISION  
[4] -----  
[5] COMMONWEALTH :

[6] :  
[7] :  
[8] vs. : C.P.# 51-CR-0004768-2007  
[9] :  
[10] :  
[11] :  
[12] :  
[13] :  
[14] Thursday, September 11, 2008  
[15] :  
[16] BEFORE: THE HONORABLE SANDY L.V. BYRD, J.  
[17] :  
[18] JURY TRIAL  
[19] :  
[20] :  
[21] :  
[22] :  
[23] :  
[24] :  
[25] :

[9] JOHN IN :  
[10] :  
[11] Room 801, Criminal Justice Center  
[12] Philadelphia, Pennsylvania  
[13] :  
[14] Thursday, September 11, 2008  
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[20] :  
[21] :  
[22] :  
[23] :  
[24] :  
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[1] :  
[2] :  
[3] APPEARANCES:  
[4] LAUREN BARALDO, ESQUIRE  
Assistant District Attorney  
For the Commonwealth  
[5] RICHARD GIULIANI, ESQUIRE  
[6] Attorney for the Defendant  
[7] :  
[8] BYRON HOUSTON, ESQUIRE  
Attorney for Dyshon Marable  
[9] :  
[10] :  
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[1]  
[2] **THE COURT:** Let's go on the record  
[3] on Commonwealth versus John In,  
[4] CP-51-CR-0004768-2007.  
[5] Before we get started, the record  
[6] should reflect the jury is not present. On  
[7] yesterday there was some mention of an alleged  
[8] co-conspirator testifying. Are there any issues  
[9] that we'll need to address now?  
[10] **MS. BARALDI:** I went down and saw  
[11] Mr. Marable with a detective. I was informed by  
[12] Mr. Marable that he doesn't even plan on giving me  
[13] his name. I think that there will be possible  
[14] contempt issues.  
[15] **THE COURT:** All right.  
[16] Mr. Houston, do you represent  
[17] Mr. Marable?  
[18] **MR. HOUSTON:** I did at a guilty  
[19] plea, Your Honor, so my representation extends to  
[20] now.  
[21] **THE COURT:** Has he been sentenced?  
[22] **MR. HOUSTON:** Yes, Your Honor.  
[23] **THE COURT:** So there's no Fifth  
[24] Amendment issues?  
[25] **MR. HOUSTON:** None I can recognize

[1] from this act.  
[2] **THE COURT:** I have no way of knowing  
[3] what your client intends to do, but if he does not  
[4] answer questions I intend to hold him in  
[5] contempt. So you should go down and advise him  
[6] that each question he refuses to answer will be  
[7] six months, minus one day and I will continue that  
[8] as long as there are questions.  
[9] **MR. HOUSTON:** Okay. Your Honor, do  
[10] I have a time frame?  
[11] **THE COURT:** That's right, you are  
[12] assigned elsewhere, aren't you?  
[13] **MR. HOUSTON:** 901, yes.  
[14] **THE COURT:** Can you talk to him this  
[15] morning and report as to what his position is and  
[16] I'll release you until he's called.  
[17] **MR. HOUSTON:** I'll go upstairs and  
[18] Judge Bronson will --  
[19] **THE COURT:** When do you expect to  
[20] call him?  
[21] **MS. BARALDI:** Whenever it's  
[22] convenient for Mr. Houston. I can put Mr. Marable  
[23] on today or tomorrow morning, whatever is good for  
[24] Mr. Houston.  
[25]

[1]  
[2] **MR. HOUSTON:** All right. Judge,  
[3] I'll go in and check in and I'll let the Court  
[4] know my status so I can go talk to him.  
[5] **THE COURT:** All right. Let me see.  
[6] Give me one moment and I'll see the attorneys.  
[7] (Whereupon, a discussion was held off the record, not  
[8] reported.)  
[9] **THE COURT:** Okay. Let's get  
[10] started.  
[11] **THE COURT CRIER:** Please remain  
[12] seated while the jurors enter the courtroom.  
[13] (Jury enters the courtroom at 9:50 a.m.)  
[14] **THE COURT:** Good morning, ladies and  
[15] gentlemen. You may be seated.  
[16] **THE JURY:** (Jury panel complies.)  
[17] **THE COURT:** Counsel, you may call  
[18] your next witness.  
[19] **MS. BARALDI:** The Commonwealth calls  
[20] Detective Robert Conn.  
[21] **THE COURT CRIER:** Please state for  
[22] the record, your name, spell your name, badge  
[23] number, and your assignment.  
[24] **THE WITNESS:** Detective Robert Conn,  
[25] C-O-N-N, Badge No. 629, assigned to Northeast

[1]  
[2] Detective Division.  
[3] DETECTIVE ROBERT CONN, after having  
[4] been first duly sworn, was examined and testified  
[5] as follows:  
[6] ---  
[7] DIRECT EXAMINATION  
[8] ---  
[9] **BY MS. BARALDI:**  
[10] **Q.** Good morning, Detective Conn.  
[11] **A.** Good morning.  
[12] **Q.** Detective Conn, back on March 7th, 2007, where  
[13] were you assigned?  
[14] **A.** At the South Detective Division.  
[15] **Q.** And what was your responsibility at that point in  
[16] time?  
[17] **A.** Working the steady midnight to 8:00 tour, as a  
[18] detective.  
[19] **Q.** Did you at some point respond to a crime scene  
[20] located at 720 Mifflin Street?  
[21] **A.** I did.  
[22] **Q.** What took you there?  
[23] **A.** There was a home invasion type robbery committed  
[24] at that residence.  
[25] **Q.** What happened when you arrived?

[1]  
[2] **A.** Yes. This is the blue Addidas sweatshirt, I just  
[3] made mention to, that Mr. Marable was wearing when I  
[4] found him in the closet.  
[5] **Q.** After you found the co-defendant in the closet,  
[6] what did you do next?  
[7] **A.** We checked the rest of the house and further  
[8] secured it. Mobile crime arrived a short time later  
[9] and began processing the scene there.  
[10] **Q.** You mean the Crime Scene Unit?  
[11] **A.** Yes.  
[12] **Q.** And those are the ones that collected any of the  
[13] evidence?  
[14] **A.** Yes.  
[15] **Q.** Did you collect any evidence yourself?  
[16] **A.** What I collected from the kitchen area was a red  
[17] cord or string-type thing, it's just a red cord.  
[18] **MS. BARALDI:** If the witness could  
[19] be shown what has been previously marked C-1.  
[20] **BY MS. BARALDI:**  
[21] **Q.** Detective, do you recognize C-1?  
[22] **A.** Yes, this is the red cord I referred to just a  
[23] minute ago. I recovered it from the kitchen-type  
[24] area.  
[25] Mr. Yun, the complainant in this incident, told me

[1]  
[2] **A.** The incident happened about 5:15 a.m., myself and  
[3] Detective Hopkins arrived around 6:15 a.m. We entered  
[4] the property and the first thing I do, I was the lead  
[5] assigned investigator in this case, so the first thing  
[6] I do with the interior crime scene I like to secure the  
[7] scene for myself. It's something I do.  
[8] **Q.** What do you mean by "secure the scene"?  
[9] **A.** Check the property myself in case anyone else is  
[10] in there.  
[11] **Q.** Did you secure the scene?  
[12] **A.** Within minutes I was on the second floor front  
[13] bedroom, and in a closet I found a co-defendant in this  
[14] case, Dyshon Marable, hiding underneath some clothes.  
[15] **Q.** Do you remember what, if anything, Dyshon Marable  
[16] was wearing?  
[17] **A.** A blue Addidas sweat-type jacket.  
[18] **MS. BARALDI:** If I could have this  
[19] marked as C-2.  
[20] (Jacket marked Commonwealth's Exhibit 2 for  
[21] identification.)  
[22] **THE COURT CRIER:** Marking Exhibit  
[23] C-2. Showing it to the defense.  
[24] **BY MS. BARALDI:**  
[25] **Q.** Do you recognize C-2, Detective?

[1]  
[2] this was used to tie him up during the robbery.  
[3] **Q.** And after you recovered the orange(sic) cord, what  
[4] did you do with it?  
[5] **A.** Submitted it on a property receipt.  
[6] **MS. BARALDI:** If I could have this  
[7] marked as C-3.  
[8] (Property receipt marked Commonwealth's Exhibit 3 for  
[9] identification.)  
[10] **BY MS. BARALDI:**  
[11] **Q.** Detective, do you recognize C-3?  
[12] **A.** Yes, Property Receipt No. 2704765 for the red or  
[13] orange cord.  
[14] **Q.** And you said to the ladies and gentlemen that you  
[15] placed it on a property receipt. That's police speak  
[16] for what?  
[17] **A.** A property receipt gives it a specific number so  
[18] we can refer back to it later.  
[19] **Q.** And when you put it on the property receipt, where  
[20] does the evidence go?  
[21] **A.** The evidence was submitted to our evidence room at  
[22] City Hall.  
[23] **Q.** Did you do anything else at the scene?  
[24] **A.** Well, I did survey the scene. I went to the rear  
[25] yard. And by the rear next to the yard there was a gun



[1]  
[2] in some type of shed or cement, I don't know what it  
[3] was. It looked like a coal bin to me that was in the  
[4] rear yard.  
[5] **Q.** And you did not recover that?  
[6] **A.** I did not.  
[7] **Q.** Did you have an opportunity to speak with the  
[8] co-defendant, Dyshon Marable, after he was taken from  
[9] the closet?  
[10] **A.** At a later time, that's correct.  
[11] **Q.** Where did you speak with him?  
[12] **A.** South Detectives.  
[13] **Q.** Did you give him his Miranda warnings?  
[14] **A.** That's correct.  
[15] **Q.** Was he cooperative?  
[16] **A.** He was.  
[17] **Q.** Did he provide you a statement with his and others  
[18] actions for this incident?  
[19] **A.** He did.  
[20] **Q.** There was also a white Nissan Altima involved in  
[21] this case. What did you have to do with this white  
[22] Nissan Altima?  
[23] **A.** As part of surveying the whole scene because it  
[24] went a couple blocks, it went into the 500 block of  
[25] Mifflin Street, that's where this white Nissan was up

[1]  
[2] Street the same type or clear type of latex glove, a  
[3] piece of one.  
[4] **MS. BARALDI:** If I could have this  
[5] marked as C-4.  
[6] (Photograph marked Commonwealth's Exhibit 4 for  
[7] identification.)  
[8] **BY MS. BARALDI:**  
[9] **Q.** Detective, what is C-4?  
[10] **A.** C-4 is the driver's side -- it's a view of the  
[11] driver's side of the white Nissan Altima. And you can  
[12] see behind in this picture before behind the driver's  
[13] seat is the CVS latex gloves I referred to.  
[14] **Q.** Did you take that picture?  
[15] **A.** I did.  
[16] **Q.** And when did you take that picture?  
[17] **A.** During the execution of the search and seizure  
[18] warrant.  
[19] **MS. BARALDI:** And if I could have  
[20] this marked C-5?  
[21] (Search and seizure warrant marked Commonwealth's Exhibit  
[22] 5 for identification.)  
[23] **BY MS. BARALDI:**  
[24] **Q.** And, Detective, what is C-5?  
[25] **A.** C-5 is a Search and Seizure Warrant No. 128228.

[1]  
[2] against a building. I walked down with another  
[3] officer, Officer Avon from the Crime Scene Unit and we  
[4] were observing the vehicle and I observed a gun,  
[5] handgun, on the driver's side on top of the seat in  
[6] that vehicle.  
[7] **Q.** And did you recover that gun?  
[8] **A.** I did not.  
[9] **Q.** Officer Wilson from Crime Scene did?  
[10] **A.** That is correct.  
[11] **Q.** Did you make any other observations regarding the  
[12] Nissan Altima?  
[13] **A.** Not at that time.  
[14] **Q.** Someone placed that on the property receipt?  
[15] **A.** The vehicle, that's correct.  
[16] **Q.** And the vehicle would be in a police lot?  
[17] **A.** Police garage, 4298 McAllister Street.  
[18] **Q.** Did you make any other observations of the objects  
[19] in the car?  
[20] **A.** In the back seat area I saw a box, a CVS box,  
[21] clear latex gloves in the back seat. I later recovered  
[22] them on a search warrant, they were the clear kind.  
[23] They were the clear kind, just the clear -- not the  
[24] colored kind.  
[25] I also observed in the vestibule of 720 Mifflin

[1]  
[2] **Q.** And what is a search warrant?  
[3] **A.** A search warrant is a legal document that the  
[4] police must obtain, an approval from the District  
[5] Attorney's office in order to search someone's personal  
[6] effects, house or car.  
[7] **Q.** When did you obtain that search warrant?  
[8] **A.** The date on this is 3/26/07.  
[9] **Q.** And what was the object to be searched?  
[10] **A.** 1997 Nissan Altima, Pennsylvania license plate,  
[11] GRC-0883, white in color.  
[12] **Q.** And was that the same Nissan Altima you saw on the  
[13] 500 block of Mifflin Street?  
[14] **A.** That is correct.  
[15] **Q.** And that was placed on a property receipt?  
[16] **A.** That's correct.  
[17] **Q.** Not by you though; is that fair to say?  
[18] **A.** That's correct.  
[19] **Q.** Was that property receipt 2691194?  
[20] **A.** That's correct.  
[21] **Q.** Now, what if, anything did you recover from the  
[22] white Nissan Altima?  
[23] **A.** There's a list on the first page of the search  
[24] warrant, I'll read from that. Proof of ownership, and  
[25] that ownership was in the name of a Roan Adderly,

[1]  
[2] R-O-A-N A-D-D-E-R-L-Y. There was also a title in that  
[3] name as well a car title for the Nissan.  
[4] **MS. BARALDI:** If I could have this  
[5] marked as C-6?  
[6] (Title marked Commonwealth's Exhibit 6 for  
[7] identification.)  
[8] **BY MS. BARALDI:**  
[9] **Q.** What is C-6?  
[10] **A.** C-6 the copy of the title or is the title I  
[11] recovered from the '97 Nissan in the name of Roan  
[12] Adderly.  
[13] **Q.** And there was another object, photocopies, in the  
[14] piece of paper. Was that also recovered?  
[15] **A.** It was a Pennsylvania driver's license, first name  
[16] on it is Smith, S-M-I-T-H. The last name I'll spell,  
[17] P-R-I-N-T-E-M-P-S.  
[18] **Q.** And what's the address?  
[19] **A.** 6571 North Woodstop Street.  
[20] **Q.** And I'm sorry, what was the address of the  
[21] individual who owned the car?  
[22] **A.** 1313 Lowden Street.  
[23] **Q.** And you are familiar with the layout of  
[24] Philadelphia?  
[25] **A.** That's correct.

[1]  
[2] **Q.** Do you know what police district those driver's  
[3] license are from?  
[4] **A.** That would be the 35th Police District or the  
[5] North Division.  
[6] **Q.** And what, if anything, else was recovered?  
[7] **A.** Going from the list is one pink registration paper  
[8] for ownership of the vehicle.  
[9] **MS. BARALDI:** If I could have this  
[10] marked C-7?  
[11] (Registration paper marked Commonwealth's Exhibit 7 for  
[12] identification.)  
[13] **THE WITNESS:** C-7 is the pink  
[14] registration paper I just referred to a moment ago  
[15] in the name of Roan Adderly.  
[16] **BY MS. BARALDI:**  
[17] **Q.** What's the address on that?  
[18] **A.** The address is 5008 North Warnock Street.  
[19] **Q.** Do you know where that is located?  
[20] **A.** That is also in the 35th Police District, or North  
[21] Division.  
[22] **Q.** Continue on with your other recoveries.  
[23] **A.** Two men's coats, one black, one tan; three plastic  
[24] drink containers, one box of CVS latex gloves, one holy  
[25] curan, three traffic tickets in the name of Jerry Jean.

[1]  
[2] **MS. BARALDI:** If I could have these  
[3] marked as C-8A, B, and C?  
[4] (Traffic tickets marked collectively Commonwealth's  
[5] Exhibit 8A, B, and C for identification.)  
[6] **BY MS. BARALDI:**  
[7] **Q.** If we could start with C-8A, Detective Conn?  
[8] **A.** Got it.  
[9] **Q.** What is C-8A?  
[10] **A.** C-8A is one of the traffic tickets I referred to a  
[11] moment ago in the name of Jerry Jean.  
[12] **Q.** What's the address?  
[13] **A.** 313 East Clarkson Avenue.  
[14] **Q.** What was the date, if you can tell?  
[15] **A.** The date on this ticket was 2/16/07.  
[16] **Q.** And C-8B?  
[17] **A.** C-8B is another traffic ticket in the name of  
[18] Jerry Jean with an address of 313 East Clarkson Avenue  
[19] and the date on this ticket is 2/16/07.  
[20] **Q.** And what about C-8C?  
[21] **A.** "C" is a traffic ticket in the name of Jerry Jean,  
[22] 313 East Clarkson Avenue. The date on this ticket is  
[23] 2/17/07.  
[24] **Q.** Okay.  
[25] And where were those traffic tickets recovered

[1]  
[2] inside of the car?  
[3] **A.** The glove compartment area of the '97 Nissan.  
[4] **Q.** And was anything else recovered?  
[5] **A.** Going back to the list, one Shoprite card in the  
[6] name of Jacquelyn Jean.  
[7] **MS. BARALDI:** If I could have this  
[8] marked as C-9?  
[9] (Shoprite card marked Commonwealth's Exhibit 9 for  
[10] identification.)  
[11] **BY MS. BARALDI:**  
[12] **Q.** What is C-9?  
[13] **A.** C-9 is the Shoprite card in the name of Jacquelyn  
[14] Jean.  
[15] **Q.** And that was recovered from where inside of the  
[16] car?  
[17] **A.** That was recovered in the front passenger seat  
[18] area.  
[19] **Q.** And you mentioned there was two soda bottles in  
[20] the car?  
[21] **A.** Three plastic drink containers.  
[22] **Q.** Did you do anything with the plastic drink  
[23] containers?  
[24] **A.** Yes, took them back to South Detectives and  
[25] examined them there for possible DNA evidence. And

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[1]  
[2] when I removed the caps it was crusty, the bottles were  
[3] dirty to begin with, but when I removed to caps they  
[4] were in the car for sometime. They were very crusty  
[5] and not able to obtain any evidence from that bottle in  
[6] the condition it was in.  
[7] **Q.** Is that the sum and substance of the items  
[8] recovered from that Nissan?  
[9] **A.** There was one other item, one black T-shirt that  
[10] was recovered inside of the vehicle.  
[11] **MS. BARALDI:** Thank you, Detective.  
[12] I don't have anything further questions.  
[13] **THE COURT:** Cross-examination.  
[14] ---  
[15] **CROSS-EXAMINATION**  
[16] ---  
[17] **BY MR. GIULIANI:**  
[18] **Q.** Good morning, Detective. You went through items  
[19] inside of the car. The gun was recovered the day of  
[20] the incident, correct?  
[21] **A.** Yes.  
[22] **Q.** So in other words, the gun was taken out but all  
[23] of the items you found were pursuant to the search  
[24] warrant issued later on, correct?  
[25] **A.** That's correct.

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[1]  
[2] **Q.** Any evidence that the window was broken into in  
[3] any fashion?  
[4] **A.** I didn't see that.  
[5] **Q.** Did you talk to Mr. Yun about that as well?  
[6] **A.** Yes. He said someone came up from behind him, so  
[7] I don't know if he knows what direction they came in.  
[8] **Q.** Did you take photographs of the window?  
[9] **A.** Avon Wilson from Crime Scene did several  
[10] photographs, so he would have that.  
[11] **Q.** In the back seat of the Nissan you saw a box of  
[12] latex gloves you said they were clear not color?  
[13] **A.** That's correct.  
[14] **Q.** And you also or somebody recovered a piece of a  
[15] latex glove in the vestibule of the front of the house?  
[16] **A.** I didn't recover it, but I saw a piece in the  
[17] front vestibule.  
[18] **Q.** You saw it, but didn't you seize it and put it on  
[19] the property receipt, correct?  
[20] **A.** That's correct.  
[21] **Q.** But you did see it?  
[22] **A.** Yes.  
[23] **Q.** And you said it was a piece of a glove?  
[24] **A.** Yes.  
[25] **Q.** Do you know which of your fellow officers put that

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[1]  
[2] **Q.** And the search warrant was issued on March 26th?  
[3] **A.** That's correct.  
[4] **Q.** So the car was taken from the scene on March 7th,  
[5] taken to police storage and sat there for 19 days  
[6] before --  
[7] **A.** I had two other search warrants of the vehicle but  
[8] because of the scheduling conflicts and things like  
[9] that I had to void the other two search warrants until  
[10] I got to this one.  
[11] **Q.** Okay.  
[12] Now, you went to 720 Mifflin Street as well?  
[13] **A.** That's correct.  
[14] **Q.** As one of the things you did as the assigned, you  
[15] went in and surveyed the scene, did you see any sign of  
[16] forced entry of the front or rear doors?  
[17] **A.** I did, as well as the windows.  
[18] **Q.** What did you find?  
[19] **A.** I noticed just from sight that the rear window in  
[20] the kitchen area, they had bars up there, and a couple  
[21] of them appeared to be spread apart.  
[22] **Q.** And in your vision or looking at that window with  
[23] the bars spread apart, would the space have been large  
[24] enough for an individual?  
[25] **A.** I think so, yes.

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[1]  
[2] piece of a glove on a property receipt?  
[3] **A.** I do not.  
[4] **Q.** The latex or the piece of latex glove that was  
[5] found in the front vestibule, did that appear to be  
[6] clear?  
[7] **A.** Yeah, it was the same type of color and  
[8] consistency as the one in the back of the car.  
[9] **Q.** And do you know as the assigned there was a glove  
[10] recovered in the back of the alley behind the house as  
[11] well?  
[12] **A.** Yes.  
[13] **Q.** And did you see that even though you didn't  
[14] recover it?  
[15] **A.** I did not.  
[16] **MR. GIULIANI:** Court's indulgence,  
[17] please.  
[18] (Pause.)  
[19] **MR. GIULIANI:** That's all I have.  
[20] Thank you, Detective.  
[21] **THE COURT:** Any redirect?  
[22] **MS. BARALDI:** I do have one  
[23] question.  
[24] ---  
[25] **REDIRECT EXAMINATION**

[1]  
[2] ---  
[3] **BY MS. BARALDI:**  
[4] **Q.** Why had the gun been taken the night of the  
[5] incident but none of the other items?  
[6] **A.** There would be several reasons and that's the  
[7] decision of the person recovering it. Public safety,  
[8] it could be loaded, the car could be towed, a bump  
[9] could make that gun go off and injure someone else. So  
[10] it's taken from the scene if it's in plain view.  
[11] **Q.** And that's common police procedure; is that  
[12] correct to say?  
[13] **A.** Yes.  
[14] **MS. BARALDI:** No further questions.  
[15] ---  
[16] **RE CROSS-EXAMINATION**  
[17] ---  
[18] **BY MR. GIULIANI:**  
[19] **Q.** As the assigned you're in charge of what evidence  
[20] is submitted for either latent fingerprint analysis or  
[21] DNA in any case?  
[22] **A.** It depends. If Mobile Crimes recovered it they  
[23] make that determination depending on what it is, so  
[24] they make that determination.  
[25] **Q.** So the gun was recovered by Officer Wilson, was

[1]  
[2] recovered by Mobile Crimes, correct?  
[3] **A.** Yes.  
[4] **Q.** So Mobile Crimes would make that determination of  
[5] whether to submit the latent fingerprint exam?  
[6] **A.** Yes.  
[7] **Q.** Are you aware where they did that?  
[8] **A.** I don't know.  
[9] **MR. GIULIANI:** Fair enough. Thank  
[10] you, Detective.  
[11] **THE COURT:** Anything else?  
[12] **MS. BARALDI:** No.  
[13] **THE COURT:** Detective, did you make  
[14] reference in your testimony of observing one gun  
[15] or two?  
[16] **THE WITNESS:** Two.  
[17] **THE COURT:** Can you tell the ladies  
[18] and gentlemen what guns were seen, whether they  
[19] were handguns, shotguns, rifle?  
[20] **THE WITNESS:** The first gun was in  
[21] the rear of 720 Mifflin Street, it looked like an  
[22] old coal bin, it wasn't a shed. But right next to  
[23] fence in the rear yard, it was in that area. And  
[24] the second gun was --  
[25] **THE COURT:** Was it a shotgun, a

[1] rifle, handgun?  
[2] **THE WITNESS:** That was -- if I may  
[3] refer to my notes, Your Honor. The weapon in the  
[4] rear yard was a .9 mm semi-automatic pistol that  
[5] was loaded with ten live rounds.  
[6] **THE COURT:** And the next, you said  
[7] you saw a second gun, where was that?  
[8] **THE WITNESS:** In the driver's seat  
[9] of the '97 Altima. That was a Zig Zauer .9 mm  
[10] semi-automatic handgun.  
[11] **THE COURT:** Both were handguns  
[12] then?  
[13] **THE WITNESS:** Yes. And that was  
[14] loaded with 15 live rounds.  
[15] **THE COURT:** Any questions based on  
[16] my questions?  
[17] **MS. BARALDI:** No, Your Honor.  
[18] **MR. GIULIANI:** No Your Honor.  
[19] **THE COURT:** Thank you, sir. You may  
[20] step down.  
[21] (Witness excused.)  
[22] ---  
[23] **MS. BARALDI:** At this time the  
[24] Commonwealth would be calling Police Officer  
[25]

[1] Robinson.  
[2] **THE COURT:** Very well.  
[3] **THE COURT CRIER:** Please state your  
[4] full name, spell your last name, badge number, and  
[5] assignment.  
[6] **THE WITNESS:** Police Officer Robert  
[7] Robinson, R-O-B-I-N-S-O-N, Badge NO. 3301,  
[8] assigned to the 4th Police District.  
[9] **POLICE OFFICER ROBERT ROBINSON,**  
[10] after having been first duly sworn, was examined  
[11] and testified as follows:  
[12] ---  
[13] **DIRECT EXAMINATION**  
[14] ---  
[15] **BY MS. BARALDI:**  
[16] **Q.** Good morning, Officer Robinson.  
[17] **A.** Good morning.  
[18] **Q.** Officer Robinson, I want to take you back to March  
[19] 7th, 2007, were you working as a Philadelphia Police  
[20] Officer at that time?  
[21] **A.** That's correct.  
[22] **Q.** What tour of duty were you working?  
[23] **A.** 11:00 to 7:00.  
[24] **Q.** And were you assigned to the 4th District as well?  
[25]



[1]  
[2] A. That's correct.  
[3] Q. I want to draw your attention to 5 o'clock in the  
[4] morning, were you working alone or with a partner?  
[5] A. By myself.  
[6] Q. Were you in uniform?  
[7] A. Yes.  
[8] Q. Did you hear a radio call?  
[9] A. Yes, I did.  
[10] Q. What do I mean by "a radio call"?  
[11] A. A radio call is something that comes from police  
[12] radio, which gives an assignment which can be anywhere  
[13] from an auto accident or priority call.  
[14] Q. And do you remember the context of the radio call?  
[15] A. The call came out at 720 Mifflin Street. A call  
[16] from the basement saying somebody heard somebody in  
[17] their house, burglary in progress, for the most part.  
[18] Q. And when you arrived at 720 Mifflin Street, were  
[19] you met by any other officers?  
[20] A. I was the third car there. Officer Battles and  
[21] Nolan were on location at that time.  
[22] Q. Were they inside of the house when you arrived?  
[23] A. No.  
[24] Q. They were outside?  
[25] A. Yes.

[1]  
[2] Q. What happened when you arrived at 720 Mifflin?  
[3] A. We all got out of the cars. Officer Battles  
[4] stepped up the steps first, banged on the windows  
[5] waiting for somebody to come to the door, we had no  
[6] response. She then opened up the screen door and we  
[7] all noticed that the door was ajar, meaning it was 2 or  
[8] 3 inches open. It was left open. At that point the  
[9] front door was pushed open because we didn't know what  
[10] we had because of the nature of the call. Officer  
[11] Battles entered the first floor, followed by Officer  
[12] Nolan and myself.  
[13] At that point she asked, yelled out, did anybody  
[14] call the police? I had noticed a Asian child, I guess,  
[15] 10 or 12 maybe sitting off to the corner when she  
[16] yelled, "did anybody call the police?"  
[17] I heard a black voice, an African-American voice  
[18] from upstairs yell down, "nobody called the police."  
[19] But it looked a little odd because it's an Asian  
[20] kid on the step on the couch to hear a black voice.  
[21] She yelled it again, "Did anybody here call the  
[22] police."  
[23] The response again, "Nobody called the police."  
[24] Everything is okay."  
[25] From the angle I was at the top of the steps

[1]  
[2] because the steps was more in front of me, I saw a  
[3] sprint of legs in the back room. It was rapid movement  
[4] in the back room. At that point Officer Nolan ran  
[5] upstairs recognizing there's a problem and at that  
[6] point, as this was happening, with the rapid movement  
[7] in the back an Asian teenager came down the steps.  
[8] "Help me, help me, they have guns there's somebody  
[9] upstairs."  
[10] Nolan goes upstairs. I know there's back windows  
[11] to these houses as long as there's a back face to the  
[12] backyard or something like that, there's an egress to  
[13] get out. So I assumed right there with nobody coming  
[14] down the steps, they are going to try to go out the  
[15] back window.  
[16] I went towards the back of the house to the  
[17] kitchen area and there's a wooden door. I opened the  
[18] wooden doors, there a metal gate that takes you out to  
[19] the back door. I had to pull open to get to the  
[20] backyard. As I opened that, a black male comes flying  
[21] past me towards the back of the yard.  
[22] Q. Do you know where that man came from?  
[23] A. It would have to be from second floor because it  
[24] was no other place to come out of the house except from  
[25] the second floor. It would be to the back of the

[1]  
[2] house.  
[3] Q. Did you see anybody falling out of the second  
[4] floor?  
[5] A. I am assuming that because there is no other exit  
[6] other than a window on the second floor.  
[7] Q. Where's Officer Battles at this point?  
[8] A. She is between the kitchen and the steps.  
[9] Q. Which steps are you referring to, the steps to the  
[10] basement?  
[11] A. The steps that lead upstairs.  
[12] Q. So when this man runs past you, do you recall what  
[13] he was wearing?  
[14] A. He had a hoodie, he had a pair of jeans. He ran  
[15] so fast once he passed me I went to the back of the  
[16] yard behind him.  
[17] Q. Okay.  
[18] A. Officer Battles was then behind me to come in the  
[19] back of the yard.  
[20] As you go out, if you're coming facing the from  
[21] doorway in my viewpoint I have to go left, it's a small  
[22] corridor probably the size of the width of this box.  
[23] Q. To get in the back area?  
[24] A. To get in the backyard area. There's something  
[25] directly in front of me within 3 feet, so I have to

[1]  
[2] make a right or a left. To the right is a window, I  
[3] guess part of the first floor of the house. To the  
[4] left is an opening that takes me to the back part of  
[5] the yard which widens within like 4 feet, it widens  
[6] up. I followed this male, he actually -- I lost sight  
[7] for one second. He goes to the back of the yard and to  
[8] the left of me, as I am coming towards the back of the  
[9] yard, there's a shed. The male is in the shed. Both  
[10] of our guns are drawn, we give him commands to exit the  
[11] shed to put his hands down to go to a prone position.  
[12] Q. What do you mean "prone position"?  
[13] A. Prone meaning no threat to us, so we are able to  
[14] see his hands go to the ground, so we can apprehend  
[15] him.  
[16] Q. At this point the man is still in the shed?  
[17] A. Yes. He is given several commands to leave the  
[18] shed and he doesn't do it. It's second, seconds, he's  
[19] hauling and moving around and we are not sure what he's  
[20] doing.  
[21] Q. Can you see inside of the shed at this point?  
[22] A. No, just the movements. I think there was an  
[23] alleyway in close proximity to that to give us some  
[24] sort of light. At that point the male comes out of the  
[25] shed with one the hand he goes down to the ground like

[1]  
[2] he's going to comply to the prone position.  
[3] At that point he reaches up to the fence and  
[4] scales the fence. At that point he's given orders to  
[5] come down to the ground again and he refuses. With  
[6] that he goes to reach towards the inside of his  
[7] pockets, his right pocket, and at this we are told they  
[8] have weapons.  
[9] Officer Battles told him to stop what's he doing,  
[10] he doesn't, she fires a shot at him.  
[11] Q. Is he struck?  
[12] A. To me he basically yells, "I'm shot. You shot  
[13] me. Why did you shoot me."  
[14] At that point he continues to scale the fence.  
[15] Q. What's on the other side of the fence?  
[16] A. It's an alleyway and another yard.  
[17] Q. Do you follow him over the fence?  
[18] A. No.  
[19] Q. What do you do?  
[20] A. At that point the fence is about 8-foot high I  
[21] know there is an alley exit at the other end. I go and  
[22] run out of the front of the house, I run eastbound on  
[23] Mifflin Street.  
[24] Q. So east on Mifflin Street would have took you  
[25] towards 7th or 6th?

[1]  
[2] A. It's the 700 block. I would hit 7th and then 6th  
[3] after that.  
[4] Q. So between 7th and 8th?  
[5] A. No, I'm heading eastbound, so it would be -- the  
[6] closest street when I'm going east would be 7th Street.  
[7] Q. So you head in the direction of 7th Street?  
[8] A. Right.  
[9] Q. Do you see this male running?  
[10] A. No, I am in the front of the house, he's still in  
[11] the alleyway. I am looking for an exit for him to exit  
[12] out of the alleyway.  
[13] At that point there's a lot of commotion and I  
[14] hear Officer Birch go over the air with a car trying to  
[15] leave the area. While I am still running down Mifflin  
[16] Street I am still giving flashes in the alley going  
[17] eastbound, he's wearing a hoodie, he's got a beard,  
[18] give a brief flash. I can't find an exit. Right at  
[19] that point when I look down, Officer Cannon, has him on  
[20] the ground.  
[21] Q. And did you identify that man when you reached  
[22] Officer Cannon?  
[23] A. Yes. He had somebody with him and I continued  
[24] down because there was commotion further down.  
[25] Q. When you say "he", do you mean Officer Cannon?

[1]  
[2] A. Yes.  
[3] Q. Had another police officer with him?  
[4] A. Right. So I can continue on with the people they  
[5] were chasing.  
[6] Q. And all you know at this point you hear Officer  
[7] Birch over the radio saying he's chasing a car?  
[8] A. Yes.  
[9] Q. And that's the direction you continue on?  
[10] A. Right.  
[11] Q. Now, you said he was wearing a dark hoodie?  
[12] A. Right.  
[13] Q. Do you remember anything else about him?  
[14] A. Just his description, he was about 6 foot, 200,  
[15] 210 pounds, he had a beard, sideburns all the way like  
[16] this (indicating).  
[17] Q. Okay.  
[18] Do you remember the color of the sweatshirt?  
[19] A. It was green.  
[20] MS. BARALDI: If I could have this  
[21] marked as C-10?  
[22] (sweatshirt marked Commonwealth's Exhibit 10 for  
[23] identification.)  
[24] BY MS. BARALDI:  
[25] Q. What is C-10?

[1]  
[2] A. A green hoodie.  
[3] Q. And is that the same green hoodie that Jerry Jean  
[4] was wearing that night?  
[5] A. Yes.  
[6] Q. After you see that Officer Cannon and another  
[7] officer have this defendant under control, you said you  
[8] continued down Mifflin Street?  
[9] A. Towards Sixth.  
[10] Q. How far do you get before you turn back?  
[11] A. Probably around 6th Street. I -- actually I had  
[12] to go over the police radio, apparently they were  
[13] chasing somebody in that area that met the flash of  
[14] another, of somebody in the house.  
[15] Q. Okay.  
[16] Do you double back to the house at this point?  
[17] A. Yes.  
[18] Q. When you get to the house, who is in the house  
[19] still?  
[20] A. Officer Battles.  
[21] Q. So Officer Battles never leaves the house. She  
[22] stay in the house; is that fair to say?  
[23] A. Yes -- no, after I left when she came back she was  
[24] there. She was there originally and when I came back  
[25] she was still there.

[1]  
[2] Q. And was Officer Nolan in the house?  
[3] A. No.  
[4] Q. So when this whole incident occurs prior to the  
[5] defendant in the green sweatshirt, Jerry Jean, the only  
[6] three officers in the house are who?  
[7] A. Myself, Officer Nolan, and Battles.  
[8] Q. Are you all in uniform?  
[9] A. Yes.  
[10] Q. Are there any plainclothes officers at the scene  
[11] at that point?  
[12] A. No.  
[13] Q. When you return back in the house after you see  
[14] Jerry Jean is secured, are there any plainclothes  
[15] officers at that point; if you can recall?  
[16] A. I don't remember.  
[17] Q. At some point are you the officer who took Dina  
[18] and Christina down to South Detectives?  
[19] A. Yes.  
[20] Q. And you transported those two girls to the wagon  
[21] to make identifications; is that fair to say?  
[22] A. Yes.  
[23] MR. BARRY: Thank you, Officer  
[24] Robinson. I don't have any further questions.  
[25] Thank you.

[1]  
[2] ---  
[3] CROSS-EXAMINATION  
[4] ---  
[5] BY MR. GIULIANI:  
[6] Q. Good morning, Officer. How are you?  
[7] A. Good morning.  
[8] Q. When you get the call of a burglary in progress  
[9] where in the 4th District are you at that point in and  
[10] time, if you can recall?  
[11] A. My sector is on the east end.  
[12] Q. Which would be?  
[13] A. A sector would be Delaware River to Tasker to  
[14] Wolf.  
[15] Q. So you get the call, and you're in the police  
[16] cruiser by yourself?  
[17] A. That's correct.  
[18] Q. You get to 720 Mifflin Street in less than five  
[19] minutes?  
[20] A. Two to three minutes.  
[21] Q. Okay.  
[22] So you get there and arrive almost simultaneously  
[23] with Officer Nolan and Battles?  
[24] A. That's correct.  
[25] Q. And they are working alone in separate police

[1]  
[2] cruisers, correct?  
[3] A. Yes.  
[4] Q. So the three of you approach the house and when  
[5] the three of you entered it was Battles who went first,  
[6] Nolan, and you bring up the rear?  
[7] A. Right.  
[8] Q. So you go in and noticed there's a young Asian  
[9] male there, correct?  
[10] A. It was an Asian older child, 10 or 11 maybe, 12.  
[11] Q. And you hear what you call a black voice, did  
[12] anybody call the cops?  
[13] A. Right.  
[14] Q. Then the Asian female comes running down steps,  
[15] correct?  
[16] A. Right.  
[17] Q. But you may not have known at that particular time  
[18] but you know now that's Christina Khem, correct?  
[19] A. Correct.  
[20] Q. Because she was one of the two females you brought  
[21] to the scene to identify?  
[22] A. Yes.  
[23] Q. She comes running down the steps and says there's  
[24] guys with guns up there?  
[25] A. Yes.



[1]  
[2] Q. And based on that Nolan goes upstairs, you and  
[3] Battles don't go upstairs, right?  
[4] A. Right.  
[5] Q. And you and Battles, with you in the lead, go  
[6] towards the back of the house, right?  
[7] A. Right.  
[8] Q. You go into the kitchen and see there's a single  
[9] back door to the backyard, right?  
[10] A. A door and a metal gate.  
[11] Q. And you proceed to go to the backyard because  
[12] you're looking to prevent what happened, somebody  
[13] jumping out of the second floor and escape out of the  
[14] back?  
[15] A. That's correct.  
[16] Q. As you go through the kitchen, do you notice  
[17] there's a basement door there?  
[18] A. Yes.  
[19] Q. Do you remember whether the door was open or  
[20] shut?  
[21] A. No.  
[22] Q. No, you don't recall?  
[23] A. I don't recall.  
[24] Q. So does it take you a little bit of time to get to  
[25] that back door and back metal gate; if you recall.

[1]  
[2] A. Five seconds.  
[3] Q. We are talking some time here but this happened  
[4] extremely quickly; is that fair to say?  
[5] A. Yes.  
[6] Q. When you opened that back door and back metal gate  
[7] you go outside and saw a black male pass you?  
[8] A. He ran past me and I followed behind.  
[9] Q. And you know the only place he could have came  
[10] from was the second floor?  
[11] A. Yes.  
[12] Q. And when you did that, I think you testified and  
[13] told the jury, but you're outside and Battles remains  
[14] inside at that point in time, right?  
[15] A. No.  
[16] Q. Did you not say, I want to be clear, at some point  
[17] you say, you begin to go outside and Battles remains  
[18] inside between the kitchen and the steps to go  
[19] upstairs?  
[20] A. That was prior to me exiting the building.  
[21] Q. So when you went out, she followed you?  
[22] A. That's correct.  
[23] Q. Then you have the incident outside and the male  
[24] goes out to the shed. You and Battles draw your  
[25] weapons and he tries to get away, makes a movement, and

[1]  
[2] Battles fires, correct?  
[3] A. Yes.  
[4] Q. You don't discharge your weapon?  
[5] A. No.  
[6] Q. The male climbs the fence.  
[7] A. Right.  
[8] Q. And you and Battles don't climb the fence, you go  
[9] out in the street, correct?  
[10] A. Officer Battles remained, I continued through the  
[11] house and out eastbound.  
[12] Q. So Battles stayed in the backyard and you ran out  
[13] of the front of the house?  
[14] A. After the male left the area there was no threat  
[15] to us, I went in foot pursuit parallel to the front  
[16] compared to him being in the alleyway.  
[17] Q. Okay.  
[18] So you ran out of the front door?  
[19] A. Yes.  
[20] Q. And when you ran out the front door, you didn't  
[21] see any other individual at that point in time?  
[22] A. Not that I recall.  
[23] Q. And when you ran out of the front door you turn  
[24] left towards 7th Street?  
[25] A. I would turn right.

[1]  
[2] Q. Right. I'm sorry, it's on the south side of the  
[3] street. You turned right to 720 Mifflin Street and  
[4] down to 7th and 6th, right?  
[5] A. Yes.  
[6] Q. As you do that, do you see anybody running in  
[7] front of you?  
[8] A. No.  
[9] Q. You don't see anybody fleeing the scene?  
[10] A. No.  
[11] Q. And you say that at some point you are running  
[12] down Mifflin Street and towards 7th, and you hear over  
[13] police radio and hear Officer Birch come over and say  
[14] that he sees somebody running or chasing a car?  
[15] A. I think it was about somebody chasing a car.  
[16] Q. Did you know it was Birch who was talking, did you  
[17] recognize his voice?  
[18] A. I wasn't paying attention. Just that somebody was  
[19] in a car leaving the area.  
[20] Q. Did you see the car leave the area?  
[21] A. No.  
[22] Q. But you were running down Mifflin Street?  
[23] A. Yes.  
[24] Q. And you run down to 7th and at that point in time  
[25] you know Officer Cannon has Jerry Jean on the ground?

[1]  
[2] **A.** Yes.  
[3] **Q.** And where exactly is that?  
[4] **A.** That would be on the southeast corner.  
[5] **Q.** Of 7th and Mifflin Street?  
[6] **A.** Yeah, he's got him on the ground. This hoodie is  
[7] underneath a back tire of the last car on the corner.  
[8] **Q.** Okay.  
[9] So then to get to where Mr. Jean was, you would go  
[10] down Mifflin and go through the intersection of 7th and  
[11] Mifflin Street?  
[12] **A.** Yes.  
[13] **Q.** Right down the intersection, that's where Mr. Jean  
[14] and Officer Cannon was?  
[15] **A.** Yes.  
[16] **MR. GIULIANI:** Court's indulgence,  
[17] please.  
[18] (Pause.)  
[19] **MR. GIULIANI:** Officer, that's all I  
[20] have. Thank you, sir.  
[21] **THE COURT:** Any redirect?  
[22] **MS. BARALDI:** I do not.  
[23] **THE COURT:** Thank you, sir. You may  
[24] step down.  
[25] (Witness excused.)

[1]  
[2] **Q.** Were you working alone or with a partner?  
[3] **A.** Alone.  
[4] **Q.** Were you in uniform?  
[5] **A.** Yes.  
[6] **Q.** And about 5 o'clock in the morning, did you hear a  
[7] radio call for a burglary in progress?  
[8] **A.** Yes.  
[9] **Q.** Did you go to 720 Mifflin Street?  
[10] **A.** Yes.  
[11] **Q.** When you arrived at the location, did you have any  
[12] brother or sister officers there?  
[13] **A.** Yes, Officer Battles and Officer Robinson.  
[14] **Q.** Do the three of you approach the house together?  
[15] **A.** Yes, we do.  
[16] **Q.** Tell us what happened when you approached the  
[17] house?  
[18] **A.** Battles is in front, I was in the middle, somebody  
[19] was behind me. The door was cracked open, we entered  
[20] the property. Officer Battles announced: Did anybody  
[21] call police? From the upstairs area a male called down  
[22] saying nobody called police, police are not needed.  
[23] As we are standing there a young female came down  
[24] and said, "Help me." And at that point I ran up to the  
[25] top of the steps. When I got to the top of the steps I

[1]  
[2] ---  
[3] **MS. BARALDI:** At this time, the  
[4] Commonwealth would be calling Police Officer  
[5] Nolan.  
[6] Your Honor, may I excuse Officer  
[7] Robinson?  
[8] **THE COURT:** Yes.  
[9] **THE COURT CRIER:** Please state your  
[10] name, spell your last name, unit and assignment.  
[11] **THE WITNESS:** Police Officer Thomas  
[12] Nolan, assigned to the 4th District, Badge No.  
[13] 3527.  
[14] **POLICE OFFICER THOMAS NOLAN,** after  
[15] having been first duly sworn, was examined and  
[16] testified as follows:  
[17] ---  
[18] **DIRECT EXAMINATION**  
[19] ---  
[20] **BY MS. BARALDI:**  
[21] **Q.** Good morning, Officer Nolan.  
[22] **A.** Good morning.  
[23] **Q.** Officer Nolan, back on March 7th, 2007, were you  
[24] assigned to the 4th Police District then as well?  
[25] **A.** Yes.

[1]  
[2] heard noises coming from the back bedroom. I  
[3] approached the back bedroom and witnessed a male was  
[4] sliding out of the window and one-half from his waist  
[5] down was hanging from the window area and I went to  
[6] grab him and pull him back. Unable to pull him back  
[7] he was able to get loose and sliding down the window.  
[8] At which point I ran down the steps and heard one  
[9] single shot.  
[10] **Q.** When you hear the single shot, where are you in  
[11] the house?  
[12] **A.** At the stop of the steps.  
[13] **Q.** The second floor steps?  
[14] **A.** Yes.  
[15] **Q.** After you hear the shot, what do you do?  
[16] **A.** I continue down to the backyard where Robinson and  
[17] Officers Battles were out there at that time.  
[18] **Q.** What happens next?  
[19] **A.** Robinson said the male jumped over the fence and  
[20] was heading down the alleyway, and we turned down to  
[21] the front of the house around down the corner to the  
[22] entrance of the alleyway to see if he was coming down  
[23] that way.  
[24] **Q.** So when you exit the house, you go on Mifflin  
[25] Street?

[1]  
[2] **A.** We go on Mifflin Street downwards 7th Street.  
[3] **Q.** And other than the torso down, do you ever get a  
[4] good look at this male?  
[5] **A.** No, I don't.  
[6] **Q.** Was there anything specific that you can recall  
[7] that would help you identify him?  
[8] **A.** He had on dark jeans with a silver stitching on  
[9] the pockets and black sneakers?  
[10] **Q.** So you are running eastbound on Mifflin Street  
[11] towards 7th?  
[12] **A.** Correct.  
[13] **Q.** Is Robinson next to you or are you both on the  
[14] street?  
[15] **A.** We are both running towards there. I don't know  
[16] if he was in front of me or behind me at the time.  
[17] **Q.** What happens next?  
[18] **A.** As we turned the corner towards to the alleyway,  
[19] Officer Cannon had someone between the cars towards 7th  
[20] Street on Mifflin Street. At which point ran over and  
[21] I assisted him in arresting the male suspect between  
[22] two cars hiding.  
[23] **Q.** Did anybody ever ask you to identify Jerry Jean?  
[24] **A.** No.  
[25] **Q.** The best way to identify him would have been by

[1]  
[2] his jeans; is that fair to say?  
[3] **A.** Correct.  
[4] **Q.** You prepared some police paperwork, as a result of  
[5] this incident, right?  
[6] **A.** Yes.  
[7] **Q.** Okay.  
[8] **MS. BARALDI:** If I could have this  
[9] marked collectively as C-11 and just for the  
[10] record it's four pages.  
[11] (Police 48 marked Commonwealth's Exhibit 11 for  
[12] identification.)  
[13] **BY MS. BARALDI:**  
[14] **Q.** Officer Nolan, what are those four pages of  
[15] papers?  
[16] **A.** These are 48s from the job.  
[17] **Q.** 48 in police language, what does that mean to  
[18] everybody else?  
[19] **A.** A basic description of what happened during this  
[20] incident.  
[21] **Q.** And a 48 is just the type of form; is that fair to  
[22] say?  
[23] **A.** Correct.  
[24] **Q.** And you were the one, I guess, as the first  
[25] responding officer or one of the first responding

[1]  
[2] officers who would have prepared these reports?  
[3] **A.** Yes.  
[4] **Q.** And these would have been done the night of the  
[5] incident?  
[6] **A.** Yes.  
[7] **Q.** And then submitted to Detective Conn as the  
[8] assigned; is that fair?  
[9] **A.** Yes.  
[10] **MS. BARALDI:** Court's indulgence for  
[11] one second.  
[12] (Pause.)  
[13] **MS. BARALDI:** I don't have any  
[14] further questions.  
[15] **THE COURT:** Mr. Giuliani?  
[16] **MR. GIULIANI:** Thank you.  
[17] ---  
[18] CROSS-EXAMINATION  
[19] ---  
[20] **BY MR. GIULIANI:**  
[21] **Q.** I just have a couple questions. When you get to  
[22] the house yourself, Officer Battles, and officer  
[23] Robinson enter the property and notice that the door is  
[24] cracked open, right?  
[25] **A.** Right.

[1]  
[2] **Q.** You go in and eventually a young woman we know  
[3] Christina Khem comes running downstairs and says "help  
[4] me, help me, they have guns," right?  
[5] **A.** She just said, "help me, help me."  
[6] **Q.** You, out of these three officers, go upstairs?  
[7] **A.** Correct.  
[8] **Q.** Do you have your gun drawn when you do that?  
[9] **A.** Yes.  
[10] **Q.** Battles and Robinson stay downstairs, correct?  
[11] **A.** Correct.  
[12] **Q.** As soon as you get to the top landing say you  
[13] trying to clear that there's no one pointing a gun at  
[14] you.  
[15] **A.** Correct.  
[16] **Q.** As you proceed up the steps and see it's clear,  
[17] then you notice an individual we know now who is Jerry  
[18] Jean get out of the window?  
[19] **A.** Correct.  
[20] **Q.** At that time you believe but you weren't sure  
[21] there may have been one more male up there?  
[22] **A.** That's correct.  
[23] **Q.** When you get up there you see the one that goes  
[24] out the window, correct?  
[25] **A.** Correct.

[1]  
[2] **Q.** As soon as that guy jumps out of the window, is it  
[3] fair to say you run back downstairs?  
[4] **A.** Yes.  
[5] **Q.** Okay.  
[6] So by the time that you left and went up the  
[7] steps, saw Mr. Jean, go through the window, jump out,  
[8] and come back downstairs, what are you talking about 20  
[9] or 30 seconds?  
[10] **A.** Roughly, 20 or 25 seconds.  
[11] **Q.** Okay.  
[12] When you go back downstairs, where do you go? Do  
[13] you go through the backyard or stay inside of the  
[14] house?  
[15] **A.** I go to the backyard.  
[16] **Q.** And when go to the backyard you got to go through  
[17] kitchen, right?  
[18] **A.** Correct.  
[19] **Q.** Did you notice that time whether or not there was  
[20] a door to the basement from the kitchen?  
[21] **A.** No, I went straight to the yard.  
[22] **Q.** And at any point in time after you exit -- after  
[23] you came back down from the second floor, did you see  
[24] any other non-police individual in the house?  
[25] **A.** No.

[1]  
[2] **Q.** Officer Nolan, is it also fair to say that a large  
[3] number of officers eventually responded to the scene?  
[4] **A.** Yes.  
[5] **Q.** And is it also fair to say that everything  
[6] happened extremely quickly?  
[7] **A.** Yes.  
[8] **Q.** And there was a lot of confusion and chaos because  
[9] of the number of individuals, the threat of guns,  
[10] people inside; is that fair to say too?  
[11] **A.** Yes.  
[12] **Q.** You didn't know then, but found out there was a  
[13] male upstairs hiding in the closet?  
[14] **A.** Yes.  
[15] **Q.** Who wasn't found for like an hour later?  
[16] **A.** Right.  
[17] **Q.** The individual who you helped assist arrest,  
[18] Mr. Jean, he's a big guy, isn't he?  
[19] **A.** Yes.  
[20] **Q.** He's 6 foot 2, something like that?  
[21] **A.** Six-four.  
[22] **Q.** So he's about my height?  
[23] **A.** Approximately.  
[24] **Q.** Huskier than me?  
[25] **A.** Yes, he's a big boy.

[1]  
[2] **Q.** Now, you go back downstairs into the backyard and  
[3] Battles is back there, correct?  
[4] **A.** Correct.  
[5] **Q.** Had Robinson already left and went out of the  
[6] front?  
[7] **A.** He was back there also.  
[8] **Q.** He was there too. Okay.  
[9] Did he run out of the front door?  
[10] **A.** We both went out the front door we he said he went  
[11] in the alley and he took off down there.  
[12] **Q.** And you would have to make a right towards 7th  
[13] Street?  
[14] **A.** Right.  
[15] **Q.** And run down Mifflin?  
[16] **A.** Right.  
[17] **Q.** Did you see a vehicle fleeing the scene at that  
[18] point?  
[19] **A.** No.  
[20] **MR. GIULIANI:** Thank you, Officer.  
[21] **THE COURT:** Any redirect?  
[22] **MS. BARALDI:** Just one question.  
[23] ---  
[24] REDIRECT EXAMINATION  
[25] ---

[1]  
[2] **BY MS. BARALDI:**  
[3] **Q.** At the point when you and Officer Robinson exit  
[4] the house after Officer Battles discharged, had any  
[5] other officers arrived at that location?  
[6] **A.** No.  
[7] **Q.** So it was the three of you in the property at the  
[8] point which you exit?  
[9] **A.** Correct.  
[10] **MS. BARALDI:** I don't have anything  
[11] further.  
[12] **THE COURT:** Thank you, sir. You  
[13] may step down.  
[14] (Witness excused.)  
[15] **THE COURT:** You may call your next  
[16] witness.  
[17] **MS. BARALDI:** Your Honor, may I  
[18] excuse Officer Nolan?  
[19] **THE COURT:** Yes.  
[20] **MS. BARALDI:** At this time the  
[21] Commonwealth would be calling Officer Cannon.  
[22] **THE COURT:** We are going to take a  
[23] quick -- we are going to take a break.  
[24] **THE COURT CRIER:** Please remain  
[25] seated while the juror exits the courtroom.



[1]  
[2] (Jury departs the courtroom at 10:45 a.m.)  
[3] (Short recess.)  
[4] **THE COURT:** Let me see counsel for a  
[5] moment.  
[6] (Whereupon, a discussion was held off the record, not  
[7] reported.)  
[8] (Mr. Giuliani, Mr. Houston, Ms. Baraldi, and the Court  
[9] present.)  
[10] **MS. BARALDI:** If I may, after  
[11] Mr. Marable is done testifying, I would ask  
[12] Detective Hopkins to come in prior to.  
[13] **THE COURT:** Okay.  
[14] **MR. GIULIANI:** And can we ask  
[15] Sheriff Guess if that show up would be permissible  
[16] at some point?  
[17] **THE COURT:** At some point counsel is  
[18] going to walk over and ask Mr. Marable to stand so  
[19] he can stand next to him just for purposes of  
[20] demonstrative evidence. Is that your request?  
[21] **MR. GIULIANI:** Yes, I'm not going to  
[22] ask any questions.  
[23] **THE COURT:** At this juncture we are  
[24] outside the hearing of the jury. The jury is on  
[25] break. Mr. In is here with his attorney.

[1] Defenders Association. I was trial counsel for  
[2] Mr. Marable and I talked to him in the cell room  
[3] in the last hour about the issues presented here  
[4] today, Your Honor.  
[5] And if I could inform the Court,  
[6] Your Honor, I have from independent sources as  
[7] well as from my client he has been subject to  
[8] several threats since he has been brought down  
[9] from penitentiary.  
[10] **THE WITNESS:** Wait.  
[11] **MR. HOUSTON:** I am speaking now.  
[12] He has been warned that, anything  
[13] that may be detrimental to anybody will have  
[14] consequences. And he understands that to be  
[15] physical and his life and health has been  
[16] threatened.  
[17] **THE COURT:** Let me be clear on  
[18] something. You represented Mr. Marable in a case  
[19] related to this matter?  
[20] **MR. HOUSTON:** That's correct, Your  
[21] Honor.  
[22] **THE COURT:** And in particular, what  
[23] were the circumstances?  
[24] **MR. HOUSTON:** The circumstances I

[1] Mr. Giuliani and Ms. Baraldi for the Commonwealth.  
[2] Who is your next witness, ma'am?  
[3] **MS. BARALDI:** Dyshon Marable.  
[4] **THE COURT:** Mr. Marable is on the  
[5] witness stand. Let's have him sworn in.  
[6] Would you stand up, sir?  
[7] **THE WITNESS:** (Witness complies.)  
[8] **THE COURT CRIER:** State for the  
[9] record your name and name for the record.  
[10] **THE WITNESS:** (No audible response.)  
[11] **THE COURT:** Answer the question,  
[12] Mr. Marable. What is your name and spell it,  
[13] please?  
[14] **THE WITNESS:** (No audible response.)  
[15] **THE COURT:** Are you refusing to  
[16] state your name, sir?  
[17] **THE WITNESS:** Yeah.  
[18] **THE COURT:** Mr. Houston?  
[19] **MR. HOUSTON:** Yes, may I address the  
[20] Court?  
[21] **THE COURT:** Would you tell us, on  
[22] the record, what your relationship is to this  
[23] defendant?  
[24] **MR. HOUSTON:** Yes, Byron Houston,  
[25]

[1] think and attested to at trial here, I can't  
[2] remember the night in question, the police went to  
[3] a house --  
[4] **THE COURT:** I mean his --  
[5] **MR. HOUSTON:** Well, it ended -- he  
[6] pleaded guilty, Your Honor.  
[7] **THE COURT:** With respect to  
[8] Mr. Marable his case was listed before me on  
[9] 12/3/07, and you were counsel. What happened at  
[10] his proceeding?  
[11] **MR. HOUSTON:** He entered a plea of  
[12] guilty to a robbery and burglary and the sentence  
[13] was five to ten years. He was sentenced and that  
[14] was in December.  
[15] **THE COURT:** All right. So that the  
[16] record is clear on this part of these proceedings,  
[17] I am well aware that Mr. Houston is an officer of  
[18] the Court, however, at this juncture on your  
[19] representation that he entered a guilty plea you  
[20] should advise Mr. Marable whether or not he has a  
[21] Fifth Amendment privilege in this matter.  
[22] **MR. HOUSTON:** I have so advised him,  
[23] but I will do it again.  
[24] Mr. Marable, I would like for you to  
[25]

[1]  
[2] understand that because you entered the plea and  
[3] the Judge accepted the plea, the Judge sentenced  
[4] you pursuant to plea agreement and your 30 days  
[5] have elapsed since that sentence imposed.  
[6] Therefore, you have no rights as I recognize at  
[7] this point, Fifth Amendment rights, that pertain  
[8] to that case whatsoever. So that means that if  
[9] you choose not to testify pursuant to the Fifth  
[10] Amendment, which the law allows you to do or the  
[11] Sixth, I'm not sure of the Sixth, then you receive  
[12] none of the protections that the Fifth Amendment  
[13] usually affords, that mean nobody can do anything  
[14] to you about it.

[15] **THE COURT:** Mr. Marable, you have  
[16] refused to give your name and be sworn in; is that  
[17] correct?

[18] **THE WITNESS:** Yes.

[19] **THE COURT:** I want you to understand  
[20] that this conduct has occurred in the presence of  
[21] this Judge and it is impermissible; do you  
[22] understand that?

[23] **THE WITNESS:** Meaning what?

[24] **THE COURT:** It is not permissible;  
[25] do you understand that?

[1] continue this impermissible conduct?  
[2]  
[3] **THE WITNESS:** Yeah, I ain't telling  
[4] on nobody.

[5] **THE COURT:** I didn't understand  
[6] you.

[7] **THE WITNESS:** Yes.

[8] **THE COURT:** Okay. If you continue  
[9] with this impermissible conduct and I conclude you  
[10] will, based on your answer, such conduct is  
[11] intentional, it is willful; do you understand  
[12] that?

[13] **THE WITNESS:** Yes.

[14] **THE COURT:** I am now directing you  
[15] to give your name and answer questions.  
[16] Swear in the witness.

[17] **THE COURT CRIER:** Please state for  
[18] the record, your name and spell your name.

[19] **THE WITNESS:** (No audible response.)

[20] **THE COURT:** Is that silence?

[21] **THE WITNESS:** Yes.

[22] **THE COURT:** You are declining to  
[23] give your name?

[24] **THE WITNESS:** Yes.

[25] **THE COURT:** Do you intend to testify

[1]  
[2] **THE WITNESS:** So meaning I got to do  
[3] what?

[4] **THE COURT:** Did you hear my  
[5] statement?

[6] **THE WITNESS:** Yeah.

[7] **THE COURT:** Do you understand it?

[8] **THE WITNESS:** No, that's what I am  
[9] asking you.

[10] **THE COURT:** You don't have a right  
[11] to decline to give your name and/or to testify  
[12] because you have pled guilty in this case and have  
[13] no Fifth Amendment privilege; do you understand  
[14] that?

[15] **THE WITNESS:** Yes.

[16] **THE COURT:** Now, the consequences of  
[17] your conduct are that I can hold you in contempt  
[18] of court and sentence you to a term of  
[19] incarceration over and above what your serving  
[20] now; do you understand that?

[21] **THE WITNESS:** Yeah.

[22] **THE COURT:** Okay. Now, do you  
[23] understand?

[24] **THE WITNESS:** Yes.

[25] **THE COURT:** Do you intend to

[1] if questions are asked of you?  
[2]

[3] **THE WITNESS:** No.

[4] **THE COURT:** I want you to know that  
[5] your conduct is willful, it's intentional, it  
[6] disrupts this Court's proceeding, it obstructs  
[7] this Court's proceeding, it interrupts the orderly  
[8] progression of justice and it is derogatory to  
[9] this Court and to that jury; do you understand  
[10] that?

[11] **THE WITNESS:** Yes.

[12] **THE COURT:** Now the jury is not in  
[13] the room at this juncture for this reason. We  
[14] wished to ascertain outside of their presence  
[15] whether or not you would be in contempt; do you  
[16] understand?

[17] **THE WITNESS:** Yes.

[18] **THE COURT:** At this juncture it is  
[19] required on my part to preserve the authority of  
[20] this Court that you either comply with my  
[21] directives or I am impose sanctions; do you  
[22] understand?

[23] **THE WITNESS:** What's that?

[24] **THE COURT:** That I find you in  
[25] contempt.

[1]  
[2] **THE WITNESS:** Okay.  
[3] **THE COURT:** Do you understand that?  
[4] **THE WITNESS:** Yeah.  
[5] **THE COURT:** Take a moment, sit down,  
[6] and think about what you want to do and let me  
[7] know if you intend to continue to conduct yourself  
[8] in a contemptible fashion.  
[9] (Pause.)  
[10] **THE COURT:** Have you had a moment to  
[11] think about it?  
[12] **THE WITNESS:** Yes.  
[13] **THE COURT:** Do you wish to speak to  
[14] your attorney?  
[15] **THE WITNESS:** No.  
[16] **THE COURT:** Let the record reflect  
[17] that the defendant's conduct of record occurred in  
[18] the presence of this Judge. That the conduct is  
[19] impermissible, the defendant -- the witness rather  
[20] is aware of that and I so instructed him. That  
[21] the witness has been advised of the consequences  
[22] of this conduct. That the conduct is both willful  
[23] an intentional and the conduct obstructs, impedes,  
[24] disrupts, interrupts, and is derogatory to this  
[25] Court. Therefore, the Court finds the defendant

[1]  
[2] in contempt of court.  
[3] Now, before I impose the contempt,  
[4] do you wish to respond to the findings that I have  
[5] made?  
[6] **THE WITNESS:** No.  
[7] **THE COURT:** Then the Court states or  
[8] reinstates its finding. I find you guilty of  
[9] contempt, direct criminal contempt.  
[10] Now, having done so, I must instruct  
[11] you that you may be sentenced immediately unless,  
[12] of course, you decide to purge yourself with the  
[13] contempt and testify; do you understand. Do you  
[14] wish to do that?  
[15] **THE WITNESS:** Sentenced to what?  
[16] **THE COURT:** Well, unfortunately or  
[17] fortunately for you we must do this in steps. So  
[18] the first thing we do is sentence. I am telling  
[19] you we will not go to sentence if you decide to  
[20] purge yourself of the contempt and answer the  
[21] questions. Do you understand wish to?  
[22] **THE WITNESS:** What would I be  
[23] sentenced to?  
[24] **THE COURT:** I haven't decided yet.  
[25] You don't wish to purge yourself of

[1] contempt?  
[2] **THE WITNESS:** Yes.  
[3] **THE COURT:** Then having found you in  
[4] contempt of court the Court convenes a sentencing  
[5] proceeding. You have been through this before you  
[6] have been sentenced in court so you know at such a  
[7] proceeding you have the right of allocution and  
[8] have a right to be heard. Yes or no?  
[9] **THE WITNESS:** Yes.  
[10] **THE COURT:** Is there anything you  
[11] wish to say before sentence is imposed?  
[12] **THE WITNESS:** When I took the deal I  
[13] told them I wasn't going to tell on nobody.  
[14] **THE COURT:** Anything else?  
[15] **THE WITNESS:** No.  
[16] **THE COURT:** The Court having found  
[17] the defendant in contempt imposes a sentence of  
[18] six months less one day and a fine of \$499. The  
[19] sentence is to be consecutive to any sentence he's  
[20] now serving.  
[21] Do you understand the sentence?  
[22] **THE WITNESS:** Yes.  
[23] **THE COURT:** Mr. Houston, give him  
[24] his rights.  
[25]

[1]  
[2] **MR. HOUSTON:** Do you understand you  
[3] have been found in contempt by the Judge and  
[4] sentenced. You have a right to ask the Judge to  
[5] change the finding of contempt and sentence. You  
[6] should do it in the next ten days because if you  
[7] don't you will lose certain rights within the next  
[8] 30 days.  
[9] My office will represent you if you  
[10] want to file those things because they have to be  
[11] done in writing, but you to tell us about it.  
[12] Do you understand?  
[13] **THE WITNESS:** (No audible response.)  
[14] **THE COURT:** Do you understand?  
[15] **THE WITNESS:** Yes.  
[16] **THE COURT:** Okay. All right. If  
[17] everybody can stay in place, if I could see the  
[18] attorneys for one moment.  
[19] (Whereupon, a discussion was held off the record, not  
[20] reported.)  
[21] **THE COURT:** We are back on the  
[22] record.  
[23] Deputy Guess would you take  
[24] Mr. Marable into the room right there?  
[25] **THE SHERIFF:** Yes.



[1]  
[2] (Witness excused.)  
[3] **THE COURT:** All right. We are at  
[4] this juncture, counsel, the witness has been held  
[5] in contempt. He has declined to testify and I  
[6] have found him in contempt and sentenced him. How  
[7] do you wish to proceed?

[8] **MS. BARALDI:** I wish to call him as  
[9] my witness, have him not say whatever it is he is  
[10] going to say. I am going to ask Sheriff Guess to  
[11] read his wristband and ask Detective Hopkins to  
[12] come in and testify.

[13] **THE COURT:** Where does that get  
[14] you?

[15] **MS. BARALDI:** Then I can introduce  
[16] copies of the statement?

[17] **THE COURT:** What's the basis of  
[18] introducing the statement.

[19] **MS. BARALDI:** He's unavailable.

[20] **THE COURT:** If he is unavailable  
[21] then he is giving prior testimony, it comes in.

[22] **MS. BARALDI:** Well, arguably could  
[23] his prior testimony be his plea because it was  
[24] taken under oath?

[25] **THE COURT:** It could if that had

[1]  
[2] been some opportunity for the defendant to engage  
[3] him in full and fair cross-examination, that  
[4] wasn't the case. I'll tell you what I will do,  
[5] I'll allow you to continue with your other witness  
[6] and you can address this over the luncheon  
[7] recess. But at this juncture if it's a  
[8] Brady/Lively situation, that's a prior  
[9] inconsistent statement and he has to give some  
[10] testimony under oath that's inconsistent with the  
[11] statement he advised us, he's not going to give  
[12] any testimony, he won't even tell you his name.

[13] So unless I am mistaken, then you  
[14] have an opportunity to prove me wrong that it's  
[15] not a Brady/Lively situation. If it's prior  
[16] testimony to be produced for an unavailable  
[17] witness, we need the circumstances wherein he  
[18] testified and was subject to cross-examination. I  
[19] don't know that that's the case. Those are the  
[20] only two exceptions that readily come to mind.  
[21] You have the issue of "Crawford," you have the  
[22] issue of just plain old hearsay. Do you want to  
[23] think about it, and we've had an off-the-record  
[24] discussion, perhaps Mr. Giuliani is not going to  
[25] raise those objections he raised off the record.

[1]  
[2] **MR. GIULIANI:** I would raise those  
[3] objections I raised off the record.

[4] **THE COURT:** I want the record to  
[5] reflect that we had a sidebar and Mr. Giuliani  
[6] objected to the witness testifying. He did not  
[7] object to witness testifying, he objected to the  
[8] statement coming in on the ground that -- well,  
[9] you state your objection.

[10] **MR. GIULIANI:** Yes, Your Honor.  
[11] It's become clear from the colloquy that you had  
[12] with Mr. Marable that he will persist in refusing  
[13] to testify. Based on that it was the  
[14] Commonwealth's intention to have Detective Hopkins  
[15] or Detective Conn come in and read verbatim the  
[16] statement Mr. Marable gave to them.

[17] **THE COURT:** Is that a fair  
[18] statement?

[19] **MS. BARALDI:** Yes.

[20] **MR. GIULIANI:** Based on that, Your  
[21] Honor, it is clear that the only two ways the  
[22] statement would come in as Your Honor said under  
[23] Rule 613 if this was a prior inconsistent  
[24] statement. However, the rule states that one of  
[25] the requirements that it could come in as

[1]  
[2] substantive evidence would be the opposite party,  
[3] my client and myself had the opportunity to  
[4] question the witness about the inconsistent  
[5] statement and since he is refusing to testify we  
[6] don't have that opportunity.

[7] And the other is since he is clearly  
[8] unavailable under the hearsay, Rule 804, and his  
[9] persisted refusal to testify under court order,  
[10] the only exception that would apply as Your Honor  
[11] pointed out is former testimony. And, again, the  
[12] crux of that is we be given a fair opportunity to  
[13] cross-examine and that has not happened. Were the  
[14] Commonwealth able to read the statement into  
[15] evidence, they would have the benefit of  
[16] Mr. Marable offering testimony for the truth of  
[17] the matter asserted against my client saying he's  
[18] involved, and I have no opportunity to question  
[19] that testimony. It's clearly hearsay and I  
[20] object.

[21] **THE COURT:** Ms. Baraldi, I'll give  
[22] you full opportunity to respond.

[23] **MS. BARALDI:** I don't argue with  
[24] that. I think that's a fair and accurate  
[25] representation as to how the laws currently



[1]  
[2] stand. I would still ask that Mr. Marable be  
[3] brought out, he be asked his name, that Sheriff  
[4] Guess identify him. I would still ask that  
[5] Detective Hopkins be allowed to come in and I ask  
[6] Detective Hopkins if that defendant gave a  
[7] statement, although the context of that statement  
[8] would not be coming in.

[9] **MR. GIULIANI:** I don't object to any  
[10] of that, Your Honor.

[11] **THE COURT:** Are there any other  
[12] arguments you have for admission of the  
[13] statement?

[14] **MS. BARALDI:** No.

[15] **THE COURT:** And the procedure just  
[16] outlined is not objectionable to the defense?

[17] **MR. GIULIANI:** It is not, Your  
[18] Honor.

[19] **THE COURT:** Then let's do that.

[20] **MS. BARALDI:** Okay.

[21] **THE COURT:** Should we bring in the  
[22] jury?

[23] **MS. BARALDI:** Yes. Just for  
[24] purposes of scheduling, should we have another  
[25] witness ready after Mr. Marable?

[1]  
[2] **THE COURT:** Yes, I think we should  
[3] go as late as we can.

[4] Are we going to -- after we finish  
[5] with this process, will he be escorted out in the  
[6] jurors' presence or go out again?

[7] **MS. BARALDI:** I mean, they are  
[8] obviously going to know he's incarcerated.

[9] **THE COURT:** So it doesn't matter.

[10] **MR. GIULIANI:** It doesn't matter.

[11] Just so long as Your Honor permits me to allow  
[12] Mr. Marable to stand.

[13] **THE COURT:** So you have a tactical  
[14] reason to consenting to this process?

[15] **MR. GIULIANI:** Yes.

[16] **THE COURT:** So long as everybody  
[17] understands what the other person is doing.

[18] Bring out the jury.

[19] **THE COURT CRIER:** Please remain  
[20] seated while the juror enters the courtroom.

[21] (Jury enters the courtroom at 11:55 a.m.)

[22] **THE COURT:** Thank you, ladies and  
[23] gentlemen, you may be seated.

[24] You may call your next witness.

[25] **MS. BARALDI:** At this time the

[1]  
[2] Commonwealth calls Dyshon Marable.

[3] **THE COURT:** Mr. Marable, would you  
[4] stand?

[5] **THE WITNESS:** (Witness complies.)

[6] **THE COURT:** Swear in the witness,  
[7] please.

[8] **THE COURT CRIER:** Please stated for  
[9] the record, your name and spell your name for the  
[10] record court.

[11] **THE WITNESS:** (No audible response.)

[12] **THE COURT:** Let the record reflect  
[13] the witness refused to give his name.

[14] **MS. BARALDI:** I would ask that  
[15] Sheriff Guess identify the witness for us.

[16] **THE COURT:** Any objection?

[17] **MR. GIULIANI:** No objection, Your  
[18] Honor.

[19] **THE SHERIFF:** Dyshon Marable,  
[20] D-Y-S-H-O-N M-A-R-A-B-L-E, PP No. 949714, with his  
[21] picture on the ID.

[22] **MS. BARALDI:** And does that picture  
[23] match who is standing there today?

[24] **THE SHERIFF:** Yes, it does.

[25] **MS. BARALDI:** At this time I would

[1]  
[2] ask that Detective Hopkins be allowed to enter the  
[3] courtroom.

[4] **THE COURT:** Bring in Detective  
[5] Hopkins.

[6] **THE COURT CRIER:** Yes.

[7] **THE COURT:** Yes.

[8] (Detective Hopkins enters the courtroom.)

[9] **MS. BARALDI:** I would ask that  
[10] Detective Hopkins to be allowed to look at the  
[11] witness for purpose of future questioning.

[12] **THE COURT:** He may.

[13] (Detective Hopkins exits the courtroom.)

[14] **THE COURT:** Anything else?

[15] **MS. BARALDI:** Obviously this witness  
[16] will not be testifying.

[17] **MR. GIULIANI:** With the Court's  
[18] permission, may I approach the witness?

[19] **THE COURT:** Yes.

[20] **MR. GIULIANI:** With the Court's  
[21] permission, Sheriff Guess' permission, may I stand  
[22] next to Mr. Marable and request him to stand,  
[23] please?

[24] **THE COURT:** Yes.

[25] **THE WITNESS:** (Witness complies.)

[1]  
[2] **MR. GIULIANI:** Thank you, Your  
[3] Honor.  
[4] **THE COURT:** Anything else from  
[5] either side?  
[6] **MS. BARALDI:** No, sir.  
[7] **THE COURT:** You may escort the  
[8] witness out.  
[9] (Witness excused.)  
[10] ---  
[11] **MS. BARALDI:** Your Honor, if I may,  
[12] there has been a stipulation.  
[13] **THE COURT:** May I see the two of  
[14] you?  
[15] (Whereupon, a discussion was held off the record, not  
[16] reported.)  
[17] **THE COURT:** Mr. Giuliani, are you  
[18] ready to proceed?  
[19] **MR. GIULIANI:** Yes, we are. Thank  
[20] you, Your Honor.  
[21] **THE COURT:** Ladies and gentlemen, in  
[22] my preliminary instructions I told you that  
[23] statements made by the attorneys did not  
[24] constitute evidence, therefore they were not  
[25] binding on you. There are exceptions to this rule

[1]  
[2] and one such exception is a stipulation. When the  
[3] Commonwealth and the defense stipulate that, is  
[4] when they agree that a certain fact or facts are  
[5] true, their stipulation is evidence of that fact  
[6] and you jurors should regard stipulated or agreed  
[7] upon facts as proven.  
[8] You may proceed.  
[9] **MS. BARALDI:** Thank you.  
[10] There's been a stipulation by and  
[11] between counsel that in the case of Commonwealth  
[12] versus Dyshon Marable, Common Pleas Court No.  
[13] 51-CR-0004827-2007 that in this courtroom,  
[14] December 3rd, 2007, before the Honorable Judge  
[15] Byrd, Dyshon Marable pled guilty to three counts  
[16] of robbery. Victims being Vuthay Yun, Dina Khem,  
[17] and Christina Khem. Pled guilty to burglary of  
[18] the house at 720 Mifflin Street. Pled guilty to  
[19] possession of an instrument of crime, conspiracy  
[20] regarding the incident that happened on March 7th,  
[21] 2007.  
[22] In exchange to his guilty plea, it  
[23] was negotiated, he was sentenced to a period no  
[24] less than five no more than ten years  
[25] incarceration.

[1]  
[2] **THE COURT:** Is that so stipulated?  
[3] **MR. GIULIANI:** So stipulated, sir.  
[4] **THE COURT:** You may proceed.  
[5] **MS. BARALDI:** At this time the  
[6] Commonwealth will be calling Police Officer  
[7] Cannon.  
[8] **THE COURT CRIER:** Please state your  
[9] name, spell your last name, badge number, and  
[10] assignment for the he can record.  
[11] **THE WITNESS:** Officer Kevin Cannon,  
[12] C-A-N-N-O-N, Badge No. 1367, assigned to the 3rd  
[13] District.  
[14] **POLICE OFFICER KEVIN CANNON,** after  
[15] having been first duly sworn, was examined and  
[16] testified as follows:  
[17] ---  
[18] DIRECT EXAMINATION  
[19] ---  
[20] **BY MS. BARALDI:**  
[21] **Q.** Good afternoon, Officer Cannon.  
[22] **A.** Good afternoon.  
[23] **Q.** Officer Cannon, back on Wednesday, March 7th,  
[24] 2007, were you working as a police officer as well?  
[25] **A.** Yes, I was.

[1]  
[2] **Q.** What district were you assigned to?  
[3] **A.** Third District.  
[4] **Q.** Were you working alone or with a partner?  
[5] **A.** By myself.  
[6] **Q.** Were you in a uniform?  
[7] **A.** Yes.  
[8] **Q.** Were you operating a patrol car?  
[9] **A.** Yes.  
[10] **Q.** Did you happen to respond to a radio call for a  
[11] burglary at 720 Mifflin Street?  
[12] **A.** That's correct.  
[13] **Q.** Can you please tell the ladies and gentlemen what  
[14] you did?  
[15] **A.** At that time I pulled up to the intersection of  
[16] 7th and Mifflin. Upon arrival at the intersection I  
[17] observed on the southeast corner, on the 600 block of  
[18] Mifflin Street, a white Nissan Altima with a  
[19] Pennsylvania tag of GRC-0883. That vehicle was parked  
[20] with his headlights on. In front of that vehicle was a  
[21] gold-colored Honda. As I looked to the front of that  
[22] vehicle I observed a black male crouched down hiding in  
[23] between two parked cars.  
[24] At that time I exited my vehicle began to approach  
[25] that male. As I got about half-way across the

[1]  
[2] intersection, the white Nissan Altima parked on the  
[3] corner went into reverse. At that time it continued at  
[4] a high rate of speed eastbound on the 600 block of  
[5] Mifflin.  
[6] As it proceeded eastbound, Officer Birch, who was  
[7] also on location, went in pursuit of that vehicle.  
[8] After he passed by I continued over to the black male  
[9] between the two cars. At that time I took that black  
[10] male into custody and a short time later, I was met by  
[11] other officers including Officer Nolan who positively  
[12] ID'd the male as being the male he observed inside of  
[13] the property at 720 Mifflin.  
[14] **MS. BARALDI:** If I could have this  
[15] marked as C-12.  
[16] (Map marked Commonwealth's Exhibit 12 for identification.)  
[17] **BY MS. BARALDI:**  
[18] **Q.** I believe Officer Cannon, if you open behind you,  
[19] if you could describe for the ladies and gentlemen what  
[20] is this?  
[21] **A.** This here is the location of the actual call, the  
[22] burglary in progress of 720 Mifflin street. I am  
[23] coming southbound on 7th Street against traffic. And  
[24] that's when I get to the intersection of 7th and  
[25] Mifflin here. At 7th and Mifflin on the southeast

[1]  
[2] corner of the 600 block of Mifflin is where I observed  
[3] the white Nissan Altima. That's where it was parked  
[4] with the headlights on. Directly in front of that  
[5] vehicle was the gold-colored Honda in front of that  
[6] Honda, that's where I observed the black male identified  
[7] as Jerry Jean hiding between the two parked cars.  
[8] **Q.** Did you find anything between the cars?  
[9] **A.** Yes, in between two parked cars where he was  
[10] hiding he had his hands up behind the front bumper of  
[11] the Honda, that's where we recovered a green-colored  
[12] sweatshirt.  
[13] **MS. BARALDI:** I believe this was  
[14] previously marked C-10.  
[15] **BY MS. BARALDI:**  
[16] **Q.** Officer, is this the sweatshirt you are referring  
[17] to?  
[18] **A.** That's correct.  
[19] **Q.** Now, when you were coming down the wrong way on  
[20] 7th Street, you said that Officer Birch was in your  
[21] general vicinity, where was he?  
[22] **A.** Yes, that's correct. When we came to the stop I  
[23] was in the middle of the intersection, he was forward  
[24] to me more southbound on 7th Street in front of my car.  
[25] **Q.** Officer Cannon was Jerry Jean shot?

[1]  
[2] **A.** No.  
[3] **MS. BARALDI:** I have no further  
[4] questions.  
[5] **THE COURT:** You may cross-examine.  
[6] ---  
[7] **CROSS-EXAMINATION**  
[8] ---  
[9] **BY MR. GIULIANI:**  
[10] **Q.** Good afternoon, Officer Cannon.  
[11] **A.** How are you?  
[12] **Q.** Good, thank you. Do you recall where you were  
[13] when you got the radio call for assist officer?  
[14] **A.** I believe originally I was in the vicinity of the  
[15] 500 block of Tasker when I had just gotten a radio call  
[16] for a disturbance on the highway in the vicinity.  
[17] That's when the burglary call came out and I started to  
[18] proceed that way.  
[19] **Q.** So you are only four or five blocks away?  
[20] **A.** When the burglary call comes out, yes.  
[21] **MR. GIULIANI:** May I approach the  
[22] witness?  
[23] **THE COURT:** Yes.  
[24] **BY MR. GIULIANI:**  
[25] **Q.** So 7th Street runs northbound, correct?

[1]  
[2] **A.** Yes.  
[3] **Q.** But when you heard the radio call, you were going  
[4] southbound against traffic?  
[5] **A.** Yes.  
[6] **Q.** And because it was 5 o'clock in the morning you  
[7] didn't hit any cars?  
[8] **A.** Right.  
[9] **Q.** So you come down 7th Street in a police cruiser by  
[10] yourself?  
[11] **A.** Yes.  
[12] **Q.** And Officer Birch is in a cruiser in front of  
[13] you?  
[14] **A.** Right.  
[15] **Q.** So you are bumper to bumper almost, you're  
[16] following his lead?  
[17] **A.** Not bumper to bumper, but he's in front of me.  
[18] **Q.** So you get into the intersection and he's slightly  
[19] ahead of you, correct?  
[20] **A.** Yes.  
[21] **Q.** You said when you get to the intersection there's  
[22] the gold-colored Honda -- excuse me, the white Altima  
[23] on the corner?  
[24] **A.** Correct.  
[25] **Q.** Gold color in front of it?



[1]  
[2] **A.** Right.  
[3] **Q.** And Mr. Jean is crouched in front of the  
[4] gold-colored Honda?  
[5] **A.** Yes.  
[6] **Q.** And when you noticed the white Altima, it had its  
[7] lights on?  
[8] **A.** Yes.  
[9] **Q.** Could you tell it was running?  
[10] **A.** No.  
[11] **Q.** Did you ever see Mr. Jean go over to that white  
[12] Altima and try to get inside?  
[13] **A.** No.  
[14] **Q.** You know there was a sweatshirt that was taken off  
[15] of his body and right there, you saw that, right?  
[16] **A.** The sweatshirt I saw after the fact.  
[17] **Q.** But he's not in front of the white Altima, is he?  
[18] **A.** No.  
[19] **Q.** And you never saw him try to get into that car,  
[20] right?  
[21] **A.** No.  
[22] **Q.** And at that point in time you never saw who was  
[23] driving the Altima, right?  
[24] **A.** Right.  
[25] **Q.** So the Altima backs up and goes eastbound on

[1]  
[2] Mifflin, right?  
[3] **A.** Right.  
[4] **Q.** You stay on the scene?  
[5] **A.** Yes.  
[6] **Q.** Does Birch follow the Altima?  
[7] **A.** That's correct.  
[8] **Q.** Is he in his cruiser or on foot?  
[9] **A.** In his car.  
[10] **Q.** And just so we are clear, did you see Mr. Jean  
[11] arrive on the scene? Did you see him running before  
[12] you saw him crouched behind the car?  
[13] **A.** No. The initial time I saw him he was crouched  
[14] behind the car.  
[15] **Q.** Okay. Thank you.  
[16] **MR. GIULIANI:** Court's indulgence,  
[17] please.  
[18] (Pause.)  
[19] **BY MR. GIULIANI:**  
[20] **Q.** Did Officer Robinson come on the scene and help  
[21] you take down Jean?  
[22] **A.** Yes.  
[23] **Q.** Mr. Jean a pretty big guy?  
[24] **A.** Yes, he's tall, yeah.  
[25] **MR. GIULIANI:** Your Honor, that's

[1]  
[2] all I have.  
[3] **THE COURT:** Any redirect?  
[4] **MS. BARALDI:** No.  
[5] **THE COURT:** Thank you, Officer.  
[6] (Witness excused.)  
[7] ---  
[8] **THE COURT:** You may call your next  
[9] witness.  
[10] **MS. BARALDI:** Thank you.  
[11] At this time the Commonwealth is  
[12] going to call Sergeant Woods.  
[13] **THE COURT CRIER:** Please state your  
[14] name, for the record, and assignment for the  
[15] court.  
[16] **THE WITNESS:** Sergeant Steven Woods,  
[17] Badge No. 8886, assigned to the 4th Police  
[18] District.  
[19] SERGEANT STEVEN WOODS, after having  
[20] been first duly sworn, was examined and testified  
[21] as follows:  
[22] ---  
[23] DIRECT EXAMINATION  
[24] ---  
[25] **BY MS. BARALDI:**

[1]  
[2] **Q.** Good afternoon, Sergeant Woods.  
[3] **A.** Good afternoon.  
[4] **Q.** Sergeant, were you working back on March 7th,  
[5] 2007?  
[6] **A.** Yes, I was.  
[7] **Q.** Were you assigned to the 4th District as well?  
[8] **A.** Yes, I was.  
[9] **Q.** And at some point around 5 o'clock in the morning,  
[10] did you respond to a radio call of a burglary in  
[11] progress?  
[12] **A.** No, I responded to the initial incident of the  
[13] shots fired.  
[14] **Q.** Of the shots fired?  
[15] **A.** Yes.  
[16] **Q.** So where were you prior to arriving on location,  
[17] do you recall?  
[18] **A.** I think I was down at 2nd and Snyder.  
[19] **Q.** Okay.  
[20] So you are not in the general vicinity when the  
[21] burglary call comes out; is that fair to say?  
[22] **A.** No.  
[23] **Q.** So once the subsequent call of shots fired comes  
[24] out, that's when you come to the scene?  
[25] **A.** Yes.

[1]  
[2] **Q.** And you would have been supervising Officer  
[3] Battles, Nolan, and Robinson?  
[4] **A.** That's correct.  
[5] **Q.** So tell the ladies and gentlemen what happened  
[6] when you arrive, where are you coming from?  
[7] **A.** I was on 2nd Street, I was in route to a location  
[8] prior to my arrival on the location. There was  
[9] information received from Officer Birch in reference to  
[10] a male fleeing the scene in a white Nissan Altima. At  
[11] that point I was westbound on Mifflin Street at  
[12] approximately the 400 block with my lights on going the  
[13] wrong way up Mifflin. An officer stated the male  
[14] crashed the vehicle and was in foot pursuit. I  
[15] couldn't continue up Mifflin, so I had to change course  
[16] and went around 6th Street where I observed Officer  
[17] Birch following a male on foot.  
[18] The male jumped over one fence and entered the 500  
[19] block of Mifflin, between 6th and Mifflin, and jumped  
[20] over a fence. Birch followed him over the fence, I ran  
[21] over the side and jumped over the other side and ran  
[22] around the yard and around the corner, and pursued him  
[23] until he was on the 500 block of Mifflin Street.  
[24] **Q.** Do you see the man today?  
[25] **A.** The man to the right of counsel.

[1]  
[2] block. I went down 5th Street here, up this street  
[3] here over to 6th. Officer Birch's car was here  
[4] blocking the street. I was starting to come down here  
[5] and Birch was running westbound. There's a fence right  
[6] here where the defendant jumped over.  
[7] **Q.** Did you see the defendant jump the fence?  
[8] **A.** Yes, I did. I parked my car here, right  
[9] here (indicating).  
[10] **Q.** And right here for the record would be?  
[11] **A.** On the end of the 500 block of Mifflin, right at  
[12] 6th and Mifflin Street.  
[13] **Q.** So the defendant jumps --  
[14] **A.** There's a gate, I believe, right on this where the  
[15] grassy area is here, there's a fence here. The  
[16] defendant jumped over that fence into this yard and  
[17] Birch was following behind. I ran back around here  
[18] there was no gate or fence in this area here into this  
[19] yard.  
[20] The defendant jumped over another fence and ran  
[21] back out. The defendant ran out of this alleyway here  
[22] on Hoffman Street into a dirt lot where he was  
[23] apprehended by myself and Officer Birch.  
[24] **Q.** Okay.  
[25] Do you remember what the defendant was wearing?

[1]  
[2] **MS. BARALDI:** For the record,  
[3] indicating the defendant, John In.  
[4] **THE COURT:** The record will so  
[5] reflect.  
[6] **BY MS. BARALDI:**  
[7] **Q.** The map that is marked C-12, Officer, is it fair  
[8] to say -- you said you were driving westbound on  
[9] Mifflin Street?  
[10] **A.** That's correct.  
[11] **Q.** Could you please point to the where you were  
[12] coming?  
[13] **A.** Westbound on Mifflin.  
[14] **Q.** So you are driving the opposite way of traffic?  
[15] **A.** Yes, I was going the wrong way.  
[16] **Q.** And do you see the Altima that crashed into 524  
[17] Mifflin?  
[18] **A.** No, I was still on the 400 block coming westbound.  
[19] **Q.** And were your lights and sirens on at that point?  
[20] **A.** That's correct.  
[21] **Q.** And when you arrived, it's fair to say the car  
[22] crash occurred?  
[23] **A.** I may have caused the car crash.  
[24] **Q.** When you arrived, what's the first thing you see?  
[25] **A.** When I arrived I might have had to go around the

[1]  
[2] **A.** Yes, I do.  
[3] **Q.** Can you describe it for me?  
[4] **A.** It was a dark blue hooded sweat jacket with a --  
[5] the one with the TBA or whatever the writing is on it.  
[6] **MS. BARALDI:** Your Honor, if this  
[7] could be marked as C-13?  
[8] (Blue sweat jacket marked Commonwealth's Exhibit 13 for  
[9] identification.)  
[10] **BY MS. BARALDI:**  
[11] **Q.** Just for the record, Sergeant, what is C-13?  
[12] **A.** It's a blue and black camouflage hooded sweat  
[13] jacket.  
[14] **Q.** And this is the jacket he was wearing -- that John  
[15] In was wearing when you apprehended him?  
[16] **A.** That's correct.  
[17] **MS. BARALDI:** Thank you, Sergeant  
[18] Woods. I don't have any further questions.  
[19] **THE COURT:** Cross-examination.  
[20] ---  
[21] CROSS-EXAMINATION  
[22] ---  
[23] **BY MR. GIULIANI:**  
[24] **Q.** Good afternoon. I just have a couple questions.  
[25] When you came down 6th Street you saw my client

[1]  
[2] running and you eventually apprehended him in the lot  
[3] like you said?  
[4] **A.** Yes.  
[5] **Q.** Did you see him throw anything away or toss  
[6] anything?  
[7] **A.** No.  
[8] **Q.** Was he wearing latex gloves?  
[9] **A.** I did not see any.  
[10] **Q.** And when you found him and stopped him, you  
[11] arrested him and patted him down for your safety?  
[12] **A.** Yes.  
[13] **Q.** Did you find any weapons on him?  
[14] **A.** No, I did not.  
[15] **MR. GIULIANI:** That's all I have,  
[16] Sergeant. Thank you, sir.  
[17] **THE COURT:** Any redirect?  
[18] **MS. BARALDI:** No, Your Honor.  
[19] **THE COURT:** Thank you, sir. You may  
[20] step down.  
[21] (Witness excused.)  
[22] ---  
[23] **MS. BARALDI:** At this time the  
[24] Commonwealth will be calling Police Officer Birch.  
[25] **THE COURT CRIER:** Please state for

[1]  
[2] the record your name and spell your name, badge  
[3] number for the record.  
[4] **THE WITNESS:** Police Officer Birch,  
[5] Badge No. 6325, assigned to the 3rd District.  
[6] **POLICE OFFICER ROGER BIRCH,** after  
[7] having been first duly sworn, was examined and  
[8] **testified as follows:**  
[9] ---  
[10] **DIRECT EXAMINATION**  
[11] ---  
[12] **BY MS. BARALDI:**  
[13] **Q.** Good afternoon, Officer Birch.  
[14] **A.** Good afternoon.  
[15] **Q.** I want to take you back to March 7th, 2007, about  
[16] 5 o'clock in the morning, were you working as a  
[17] Philadelphia Police Officer at that time?  
[18] **A.** That's correct.  
[19] **Q.** Were you working alone or with a partner?  
[20] **A.** By myself.  
[21] **Q.** Were you in uniform?  
[22] **A.** Yes, ma'am.  
[23] **Q.** Were you in a patrol car?  
[24] **A.** Yes.  
[25] **Q.** And you are assigned to the 3rd District. Were

[1]  
[2] you assigned to the 3rd District back then as well?  
[3] **A.** That's correct.  
[4] **Q.** Did you respond to a radio call?  
[5] **A.** That's correct, a radio call.  
[6] **Q.** What was the radio call for?  
[7] **A.** Assist officer, shots fired.  
[8] **Q.** Where were you coming from; do you recall?  
[9] **A.** From the 3rd District.  
[10] **Q.** In relation to the 700 block of Mifflin Street, is  
[11] it north, south, east or west?  
[12] **A.** It runs northbound but we were going southbound.  
[13] **Q.** So your district is located north of Mifflin  
[14] Street?  
[15] **A.** North of Mifflin, that's correct.  
[16] **Q.** And Officer Cannon actually works in your  
[17] district, in the 3rd?  
[18] **A.** That's correct.  
[19] **Q.** Now, you said you were coming south on what  
[20] street?  
[21] **A.** Seventh Street.  
[22] **Q.** So you would have been going the opposite way of  
[23] traffic?  
[24] **A.** That's correct.  
[25] **Q.** And what happens when you are driving south on 7th

[1]  
[2] Street?  
[3] **A.** When I arrived on the corner at 7th and Mifflin  
[4] Street, I observed a male which is seated right there  
[5] next to the defense.  
[6] **MS. BARALDI:** Let the record reflect  
[7] Officer Birch identified the defendant, John In.  
[8] **THE COURT:** The record will so  
[9] reflect.  
[10] **THE WITNESS:** He was kneeled down  
[11] behind a white car, a Nissan Altima, PA tag of  
[12] GRC-0883, we made eye contact. At that point the  
[13] male jumped through the passenger's side of the  
[14] car and proceeded to put it in reverse and took  
[15] off eastbound on the 600 block of Mifflin Street  
[16] at a high rate of speed.  
[17] **BY MS. BARALDI:**  
[18] **Q.** What did you do?  
[19] **A.** At that point I went to pursue the male, I gave  
[20] off flash. And when I got to the 500 block, he noticed  
[21] another police officer coming the opposite direction,  
[22] he turned into the house, crashed the car into a  
[23] house. And at that point jumped out and ran westbound  
[24] on the 500 block of Mifflin Street.  
[25] **Q.** When you are pursuing him, are you on foot or



[1]  
[2] still in your vehicle?  
[3] **A.** In my vehicle.  
[4] **Q.** So when he crashes into the house on 5th and  
[5] Mifflin Street, does he immediately bail out of the  
[6] car?  
[7] **A.** Yes, he jumped out.  
[8] **Q.** What did you do next?  
[9] **A.** At that point I put my car into park and jump out  
[10] of my vehicle and I pursued him on foot westbound.  
[11] **Q.** So he's running westbound and he's running back in  
[12] the opposite direction that he was just driving; is  
[13] that fair to say?  
[14] **A.** That's correct.  
[15] **Q.** What happened next?  
[16] **A.** At that point there's an open yard there, the male  
[17] jumped over the fence to the yard. I jumped over the  
[18] fence behind him and he exits the 500 block of Hoffman  
[19] Street where he ran into Sergeant Woods, and that's  
[20] when he was apprehended.  
[21] **MS. BARALDI:** Your Honor, may I  
[22] approach?  
[23] **THE COURT:** Yes.  
[24] **BY MS. BARALDI:**  
[25] **Q.** Officer Birch, I am going to show you C-13. You

[1]  
[2] can see him clearly, like, right next to the sidewalk.  
[3] So when he backed the car up and proceeded eastbound, I  
[4] had to back my patrol vehicle up and proceeded  
[5] eastbound.  
[6] **Q.** And that's how you are able to see him on the  
[7] passenger's side which is closer to the sidewalk?  
[8] **A.** Yes.  
[9] **Q.** Do you remember seeing Officer Cannon at this  
[10] point?  
[11] **A.** Yes, at this point I seen Officer Cannon exit his  
[12] vehicle. If I am not mistaken, he was approaching the  
[13] black male kneeled down.  
[14] **Q.** Did you see that black male?  
[15] **A.** I didn't get a good look at him, I just seen a  
[16] black male and he was walking over to him at that  
[17] point.  
[18] **Q.** So you then followed the Altima on Mifflin Street  
[19] towards 6th, correct?  
[20] **A.** That's correct.  
[21] **Q.** And if you could point for the ladies and  
[22] gentlemen, you said the car crashed on the 500 block of  
[23] Mifflin, where exactly?  
[24] **A.** Right here (indicating).  
[25] **Q.** Which would be what address?

[1]  
[2] said you were going southbound on 7th?  
[3] **A.** Yes.  
[4] **Q.** Going the opposite way of traffic?  
[5] **A.** Yes.  
[6] **Q.** When you first see the defendant, he was where?  
[7] **A.** He was on the corner right here where the car was  
[8] parked (indicating).  
[9] **Q.** Right on the corner of 7th and Mifflin?  
[10] **A.** Yes, on the southeast corner.  
[11] **Q.** On the southeast corner which would be --  
[12] **A.** On the 600 block. This is the 7th, this is the  
[13] 600 block, so he was right there parked on the corner  
[14] (indicating).  
[15] **Q.** And when you first take notice of him where  
[16] exactly --  
[17] **A.** He's on the passenger's side kneeled down by the  
[18] side of the car.  
[19] **Q.** And he immediately jumped through which door,  
[20] front seat or back seat?  
[21] **A.** Jumped through the front seat of the passenger's  
[22] side.  
[23] **Q.** And at this point when he jumped into the car, if  
[24] you could show us on the map, where are you?  
[25] **A.** I'm a little bit beyond the intersection, but I

[1]  
[2] **A.** 524 Mifflin Street.  
[3] **Q.** Where does your car end up?  
[4] **A.** My car ends up right next to him at 524 Mifflin  
[5] Street.  
[6] **Q.** So John In exits the car?  
[7] **A.** Yes, exits the car and runs westbound. This is  
[8] the yard right here, and came up at the 500 of Hoffman  
[9] Street.  
[10] **Q.** And that's when Sergeant Woods --  
[11] **A.** Sergeant Woods grabbed him at the 500 block of  
[12] Hoffman Street.  
[13] **Q.** And you get there?  
[14] **A.** Yes.  
[15] **MS. BARALDI:** I am going to show the  
[16] witness now --  
[17] **BY MS. BARALDI:**  
[18] **Q.** Well, if you could tell the ladies and gentlemen  
[19] of the jury, what was John In wearing?  
[20] **A.** Blue jacket, dark blue jacket with camouflage  
[21] writing on it.  
[22] **MS. BARALDI:** If I could show the  
[23] officer what's been marked as C-13?  
[24] **THE COURT:** Yes.  
[25] **BY MS. BARALDI:**

[1]  
[2] Q. Officer, do you recognize that?  
[3] A. Yes.  
[4] Q. What is that?  
[5] A. The jacket he was wearing that night.  
[6] Q. Now, after John In is secured, at some point you  
[7] go back to your patrol car?  
[8] A. That's correct.  
[9] Q. Do you make any observations regarding the white  
[10] Nissan Altima?  
[11] A. Yes. At that times Officer Seabron recovered the  
[12] car, because it was still running at the location so he  
[13] stayed with the Nissan. There was a gun on the floor,  
[14] on the front seat of the floor, and there were some  
[15] gloves recovered?  
[16] Q. What kind of gloves?  
[17] A. Latex gloves.  
[18] MS. BARALDI: Thank you, Officer  
[19] Birch. I don't have any further questions.  
[20] THE COURT: Thank you.  
[21] Mr. Giuliani?  
[22] MR. GIULIANI: Yes, Your Honor.  
[23] ---  
[24] CROSS-EXAMINATION  
[25] ---

[1]  
[2] an identification number. Is that your badge number?  
[3] A. Yes, it is.  
[4] Q. And the next number is the payroll number?  
[5] A. Payroll and district number.  
[6] Q. Did you write this?  
[7] A. Yes, I did.  
[8] Q. Now, this is not dated is it?  
[9] A. Yes, it is dated.  
[10] Q. It is, where?  
[11] A. At the top, where it says 3/7.  
[12] Q. Is that the date this memo was made? We are  
[13] talking about the events of 3/7, but is that when this  
[14] was made, that night?  
[15] A. Yes, it was.  
[16] Q. Okay.  
[17] Well, let's talk about it. So this incident  
[18] happened around 5:15 in the morning, around that time,  
[19] correct?  
[20] A. Correct.  
[21] Q. Do you remember how long afterwards you made this  
[22] memorandum?  
[23] A. It had to be early in the morning, around 9  
[24] o'clock that morning.  
[25] Q. Within a couple hours?

[1]  
[2] BY MR. GIULIANI:  
[3] Q. Good afternoon, Officer.  
[4] A. Good afternoon.  
[5] MR. GIULIANI: Your Honor, I'd ask  
[6] that this be marked as D-2, I believe, and shown  
[7] to the witness, please?  
[8] THE COURT: Yes, sir.  
[9] (Memo marked Defense Exhibit 2 for identification.)  
[10] BY MR. GIULIANI:  
[11] Q. Officer Birch, the court officer is showing you  
[12] what's been marked as D-2. Would you please take a  
[13] look at that and when you've had an opportunity to look  
[14] at it please let me know.  
[15] A. I see it.  
[16] Q. Have you seen it?  
[17] A. Yes, sir.  
[18] Q. Okay.  
[19] I want to talk to you about that.  
[20] A. Okay.  
[21] Q. Defense Exhibit 2 is, like, a handwritten memo; is  
[22] it not?  
[23] A. That's correct.  
[24] Q. And it's got some writing on there and at the  
[25] bottom it appears to be a name of P/O Roger Birch with

[1]  
[2] A. Yeah, within a couple hours.  
[3] Q. I'd like to go over it quickly, if you don't  
[4] mind.  
[5] It says, "On 3/7/07 while working uniform RPC-33."  
[6] By the way, tell the ladies and gentlemen what  
[7] does "RPC" mean?  
[8] A. Radio patrol vehicle.  
[9] Q. That's your police cruiser?  
[10] A. Yes.  
[11] Q. And it says, "12 X 8," that's your shift, right?  
[12] A. Yes.  
[13] Q. Commonly known as last out?  
[14] A. Yes.  
[15] Q. "Responded to a radio call of assist officer, 4th  
[16] District," is that correct?  
[17] A. That's correct.  
[18] Q. "720 Mifflin. Arrived on location, 7th and  
[19] Mifflin, observed male sitting inside white Nissan  
[20] Altima," and it has the license plate number.  
[21] Do you see that?  
[22] A. That's correct.  
[23] Q. Now, you're telling the jury today that when you  
[24] pulled into the intersection you came southbound the  
[25] wrong way on 7th and you see my client kneeling next to

[1]  
[2] the passenger's side.  
[3] **A.** Yes.  
[4] **Q.** Well, in your memo that you made a couple hours  
[5] later you say you see him sitting inside, but you don't  
[6] say nothing about him kneeling next to the car?  
[7] **A.** Because that night, you know, was a chaotic  
[8] situation, it may have been left out, but that's all it  
[9] was. Other than that, the male was kneeled down by the  
[10] side of the passenger side when I approached him.  
[11] **Q.** And according to your testimony, if I heard you  
[12] right, he's kneeling on the passenger's side outside of  
[13] the car?  
[14] **A.** Outside the car, that's correct.  
[15] **Q.** And then he gets into the car by the front  
[16] passenger seat, right?  
[17] **A.** He jumps over. He opened the door and jumped over  
[18] to the driver's side.  
[19] **Q.** You saw that?  
[20] **A.** Yes.  
[21] **Q.** Is this a four-door or two-door vehicle?  
[22] **A.** Four-door vehicle.  
[23] **Q.** Okay.  
[24] Now, did you see the other black male who was  
[25] there at approximately the same time?

[1]  
[2] **A.** I didn't see him until I proceeded to drive off.  
[3] I saw Officer Cannon to my left, he was walking across  
[4] the street. And I looked back in my mirror and I could  
[5] see a black male bent down, kneeling down, between one  
[6] of the vehicles.  
[7] **Q.** Did you see any interaction between that black  
[8] male and my client?  
[9] **A.** No, I didn't.  
[10] **Q.** Did you see them talking or running together?  
[11] **A.** No, sir.  
[12] **MR. GIULIANI:** Now, I'd ask that  
[13] this be marked D-3, please.  
[14] (Statement marked Defense Exhibit 3 for identification.)  
[15] **BY MR. GIULIANI:**  
[16] **Q.** Officer Birch, you have been shown D-3. Please  
[17] take a look at that, and the same thing.  
[18] **A.** I have seen it.  
[19] **Q.** You saw it before in preparation for today's  
[20] testimony, have you not?  
[21] **A.** I seen it yesterday, that's correct.  
[22] **Q.** Now, this is a statement, a more formal statement,  
[23] you gave to Detective Conn, right?  
[24] **A.** No, he went off the memo, if I am not mistaken.  
[25] **Q.** Oh, he went off the memo. Let's talk about this.

[1]  
[2] This is a statement, correct?  
[3] **A.** Yes, it is.  
[4] **Q.** And at the top -- by the way, the format is the  
[5] standard statement format that the Philadelphia  
[6] Detective Division takes?  
[7] **A.** That's correct.  
[8] **Q.** You've seen hundreds of these, correct?  
[9] **A.** Yes.  
[10] **Q.** And at the top it's got your name and badge number  
[11] and district, right?  
[12] **A.** That's correct.  
[13] **Q.** And it says interviewer at the top right, it says  
[14] Detective Conn; is that correct?  
[15] **A.** That's correct.  
[16] **Q.** Now, do you see half-way down the page it says,  
[17] "place of interview"?  
[18] **A.** Yes.  
[19] **Q.** What does it say on the back?  
[20] **A.** "South Detectives".  
[21] **Q.** And go to the right, it has a date and time when  
[22] this interview was conducted; do you see that?  
[23] **A.** Yes, I see that.  
[24] **Q.** What date and time does it say?  
[25] **A.** It says, "3/20/07, 4:55 in the morning."

[1]  
[2] **Q.** And there's another line it says, "We are  
[3] questioning you concerning," and then some typing  
[4] underneath that, correct?  
[5] **A.** That's correct.  
[6] **Q.** What does it says underneath?  
[7] **A.** "Home invasion, robbery, on 720 Mifflin on  
[8] 3/7/07."  
[9] **Q.** Let me get this straight. Did you actually have  
[10] an interview, a sit down with Detective Conn, on March  
[11] 20th, 2007 at 5 o'clock in the morning?  
[12] **A.** Yes, I did.  
[13] **Q.** So you were at South Detectives and gave this  
[14] interview?  
[15] **A.** I gave the interview.  
[16] **Q.** Okay. I wasn't sure from your testimony.  
[17] It's not in question and answer format, but it  
[18] says, "On 3/7/07 at approximately 5:15 a.m. I was  
[19] working in uniform as RPC-33. There was a radio call  
[20] at 720 radio call for 'assist officer.' I responded."  
[21] Is that correct?  
[22] **A.** That's correct.  
[23] **Q.** The next line, "I saw an Asian guy."  
[24] Now, the Asian guy you are talking about, are you  
[25] talking about John In right here?

[1]  
[2] A. Yes.  
[3] Q. "I saw an Asian guy running northbound on 6th  
[4] Street."  
[5] Is that accurate?  
[6] A. No, that's not accurate.  
[7] Q. How did that get in the statement that you gave?  
[8] A. You would have to ask Detective Conn about that  
[9] one.  
[10] Q. Okay. Maybe I'll do that.  
[11] But you'd agree with me it says, "I saw an Asian  
[12] guy running northbound on 6th Street."  
[13] And it continues, "There was a white Nissan Altima  
[14] parked on the southeast corner of 6th and Mifflin  
[15] Street."  
[16] Do you see that?  
[17] A. Yes, I see that.  
[18] Q. Is that accurate?  
[19] A. It's on the 600 block of Mifflin Street, if I am  
[20] not mistaken.  
[21] MR. GIULIANI: May I approach and  
[22] show him C-12?  
[23] THE COURT: You may.  
[24] THE WITNESS: This is 7th Street,  
[25] 700 block of Mifflin. He was parked on the

[1]  
[2] corner, which would be the 600 block.  
[3] BY MR. GIULIANI:  
[4] Q. Okay.  
[5] That's true, this is the 600 block. But let's  
[6] look at the statement and see what the statement says.  
[7] The statement says, "There was a white Nissan  
[8] Altima parked on the southwest corner of 6th and  
[9] Mifflin Street."  
[10] Southeast corner of 6th and Mifflin Street,  
[11] Officer, is a whole another block down the street.  
[12] Where you say you saw this incident was right here  
[13] on the southeast corner of 7th and Mifflin, right?  
[14] A. Exactly.  
[15] Q. This is the southeast corner of 7th and Mifflin,  
[16] the one we got here, right?  
[17] A. I guess it would be, but it was the 600 block of  
[18] Mifflin that I was on.  
[19] Q. Now, do you have any idea where the phrase, "I saw  
[20] an Asian guy running northbound on 6th and Mifflin  
[21] Street," how did that wind up on your statement?  
[22] A. No, sir.  
[23] MR. GIULIANI: Court's indulgence,  
[24] please.  
[25] (Pause.)

[1]  
[2] BY MR. GIULIANI:  
[3] Q. And one thing you testified on direct examination,  
[4] after this was all done -- strike that.  
[5] You chased the car out down the street, you said  
[6] my client gets out, runs, there's a pursuit, and  
[7] ultimately Sergeant Woods apprehends him in your sight,  
[8] correct?  
[9] A. That's correct.  
[10] Q. You go back to where you left your squad car  
[11] running on the 500 block of Mifflin running?  
[12] A. That's correct.  
[13] Q. And Officer Seabron is there tending to your  
[14] vehicle?  
[15] A. And the car the --  
[16] Q. And the Altima?  
[17] A. Yes, sir.  
[18] Q. And you said you looked inside the Altima and you  
[19] saw a gun on the floor, the driver's side floor?  
[20] A. Driver's side floor.  
[21] Q. So that would be in the area where you go into a  
[22] car seat, sit down, where the peddles are, that's where  
[23] it is, the gun is down there?  
[24] A. Exactly.  
[25] Q. And you don't touched nothing?

[1]  
[2] A. No.  
[3] Q. You didn't touch that gun, you just made sure no  
[4] one went near it?  
[5] A. That's correct.  
[6] Q. You saw the gloves in the back?  
[7] A. That's correct.  
[8] Q. Were you using a flashlight to see if you see  
[9] anything?  
[10] A. Yes, sir.  
[11] Q. But at no point did you, Officer Seabron, or  
[12] anybody go into that vehicle, enter, or move anything  
[13] around?  
[14] A. No.  
[15] MR. GIULIANI: Okay. Thank you,  
[16] Officer.  
[17] THE COURT: Any redirect?  
[18] MS. BARALDI: I have a couple  
[19] questions.  
[20] ---  
[21] REDIRECT EXAMINATION  
[22] ---  
[23] BY MS. BARALDI:  
[24] Q. Officer, this statement marked as D-3, you did  
[25] have a meeting with Detective Conn; is that fair to



[1]  
[2] say?  
[3] **A.** That's correct.  
[4] **Q.** And you just sat down and had a conversation?  
[5] **A.** That's correct.  
[6] **Q.** Was he at the computer typing verbatim what you  
[7] were saying?  
[8] **A.** I don't recall that.  
[9] **Q.** Do you remember signing the statement?  
[10] **A.** No, ma'am.  
[11] **Q.** Do you remember reading it over prior to me  
[12] showing it to you yesterday?  
[13] **A.** No, ma'am.  
[14] **Q.** And the handwriting statement is in your  
[15] handwriting from that evening?  
[16] **A.** That's correct.  
[17] **THE COURT:** Anything else?  
[18] **MR. GIULIANI:** Yes.  
[19] ---  
[20] RECROSS-EXAMINATION  
[21] ---  
[22] **BY MR. GIULIANI:**  
[23] **Q.** You don't remember you talked to Detective Conn on  
[24] March 20th, 2007 at about 5 o'clock in the morning at  
[25] the South Detective Division about this very incident;

[1]  
[2] you do remember that?  
[3] **A.** Yes, sir.  
[4] **MR. GIULIANI:** Thank you.  
[5] **THE COURT:** You may step down.  
[6] (Witness excused.)  
[7] ---  
[8] **THE COURT:** Indulge us one moment.  
[9] (Pause.)  
[10] **THE COURT:** Ladies and gentlemen,  
[11] let's take our luncheon recess. We will take an  
[12] hour and be back here at ten minutes to 2:00.  
[13] Mr. McNeal, would you tell them  
[14] where to meet.  
[15] Please remember don't discuss the  
[16] case with anyone and keep an open mind. Keep your  
[17] clipboard in the back of your chairs and we'll see  
[18] you back in an hour.  
[19] **THE COURT CRIER:** Everyone remain  
[20] seated while the jury exit the courtroom.  
[21] (Jury departs the courtroom at 12:45 p.m.)  
[22] (Luncheon recess.)  
[23] **THE COURT:** Are we ready?  
[24] **MS. BARALDI:** Yes.  
[25] **MR. GIULIANI:** Yes, Your Honor.

[1]  
[2] **THE COURT CRIER:** Please remain  
[3] seated while the jury enters the courtroom.  
[4] (Jury enters the courtroom at 2:15 p.m.)  
[5] **THE COURT:** Good afternoon, ladies  
[6] and gentlemen. You may be seated.  
[7] **THE JURY:** (Jury panel complies.)  
[8] **THE COURT:** Ma'am, you may call your  
[9] next witness.  
[10] **MS. BARALDI:** The Commonwealth calls  
[11] Police Officer Seabron.  
[12] **THE COURT CRIER:** Please state your  
[13] name, spell your last name, badge number, for the  
[14] record.  
[15] **THE WITNESS:** Peter Seabron, Badge  
[16] No. 2607, 3rd District.  
[17] **POLICE OFFICER PETER SEABRON,** after  
[18] having been first duly sworn, was examined and  
[19] testified as follows:  
[20] ---  
[21] DIRECT EXAMINATION  
[22] ---  
[23] **BY MS. BARALDI:**  
[24] **Q.** Good afternoon, Officer Seabron.  
[25] **A.** Good afternoon.

[1]  
[2] **Q.** Back on March 7th, 2007, in the early morning  
[3] hours, were you working as a Philadelphia Police  
[4] Officer?  
[5] **A.** Yes.  
[6] **Q.** Were you assigned to the 3rd Police District as  
[7] well?  
[8] **A.** Yes.  
[9] **Q.** Were you alone or with a partner?  
[10] **A.** Solo, alone.  
[11] **Q.** Police uniform?  
[12] **A.** Yes.  
[13] **Q.** Were you operating a patrol car?  
[14] **A.** Yes.  
[15] **Q.** And you responded to a radio call for assist  
[16] officer, shots fired?  
[17] **A.** Yes.  
[18] **Q.** And at that point you were located in the 3rd  
[19] District, that would be north in the 700 block of  
[20] Mifflin Street; is that fair to say?  
[21] **A.** North, yes.  
[22] **Q.** And can you tell the ladies and gentlemen when you  
[23] arrived on the scene and what you saw.  
[24] **A.** There was a foot pursuit that stemmed from that  
[25] initial radio call that ended with a car crashing at

[1]  
[2] the 500 block of Mifflin, so I went to the car that had  
[3] crashed.  
[4] **Q.** And when you arrived on location, did you see any  
[5] people there?  
[6] **A.** No.  
[7] **Q.** So tell us what you saw?  
[8] **A.** I saw the white maximum(sic) that was explained  
[9] from the pursuit that the officer had.  
[10] **Q.** And where was it?  
[11] **A.** It was at 524 Mifflin.  
[12] **Q.** Was it in the street, sidewalk, where was it?  
[13] **A.** It was against the house because the person  
[14] obviously crashed into the house and then fled.  
[15] **Q.** Okay.  
[16] When you arrived on location, was the car still  
[17] running?  
[18] **A.** Yes.  
[19] **Q.** Was it still in drive?  
[20] **A.** Yes.  
[21] **Q.** Did you see any patrol car in that area?  
[22] **A.** No.  
[23] **Q.** What about Officer Birch's car?  
[24] **A.** I don't remember seeing Birch's car.  
[25] **Q.** So you responded directly to the white car at 524?

[1]  
[2] **A.** Yes.  
[3] **Q.** And do you secure the automobile?  
[4] **A.** Yes.  
[5] **Q.** So what did you do?  
[6] **A.** I approached the automobile, it was still in  
[7] drive, and I put it in park.  
[8] **Q.** Okay.  
[9] Did you see anything inside of the car?  
[10] **A.** Yes.  
[11] **Q.** What did you see?  
[12] **A.** A black handgun.  
[13] **Q.** And where was the black handgun when you first saw  
[14] it?  
[15] **A.** On the floor.  
[16] **MS. BARALDI:** If I could have this  
[17] marked, and just so Your Honor is aware, Sheriff  
[18] Guess has seen this.  
[19] **THE COURT:** Very well.  
[20] **THE COURT CRIER:** Marking the  
[21] Exhibit C-14, showing to the defense and showing  
[22] to the witness.  
[23] (Handgun marked Commonwealth's Exhibit 14 for  
[24] identification.)  
[25] **BY MS. BARALDI:**

[1]  
[2] **Q.** Do you recognize that weapon?  
[3] **A.** Yes.  
[4] **Q.** Is that the black handgun you saw in the white  
[5] car?  
[6] **A.** It looks like it.  
[7] **Q.** Where was it when you first saw it?  
[8] **A.** On the driver's side floor.  
[9] **Q.** Did you move it?  
[10] **A.** Yes, I did.  
[11] **Q.** Where did you move it to?  
[12] **A.** I put it on the seat.  
[13] **Q.** Is this before or after you put the car in park?  
[14] **A.** It was before because it was on the floor. I  
[15] didn't want to have my feet pushing on the peddle near  
[16] this gun.  
[17] **Q.** Okay.  
[18] Did you notice anything else on the car?  
[19] **A.** I don't remember anything else other than that  
[20] gun.  
[21] **Q.** Did you put the car on a property receipt?  
[22] **A.** Yes.  
[23] **MS. BARALDI:** If I could have this  
[24] marked as C-15?  
[25] (Property receipt marked Commonwealth's Exhibit 15 for

[1]  
[2] identification.)  
[3] **BY MS. BARALDI:**  
[4] **Q.** Officer Seabron, what is C-15?  
[5] **A.** C-15 is a copy of the property receipt I prepared.  
[6] **Q.** And what's the number?  
[7] **A.** 2691194.  
[8] **Q.** And what was put on that property receipt?  
[9] **A.** I can't make out the year, but it's a Nissan  
[10] Altima and the VIN and the tag.  
[11] **Q.** What's the tag?  
[12] **A.** GRC-0883.  
[13] **Q.** And is that the same Nissan you saw on the scene?  
[14] **A.** Yes.  
[15] **Q.** Other than moving the weapon onto the passenger  
[16] seat, did you clear it or do anything else with it?  
[17] **A.** No.  
[18] **Q.** That would have been the responsibility of Crime  
[19] Scene; is that fair to say?  
[20] **A.** Yes.  
[21] **MS. BARALDI:** No further questions.  
[22] **THE COURT:** Cross-examination?  
[23] ---  
[24] CROSS-EXAMINATION  
[25] ---

[1]  
[2] **BY MR. GIULIANI:**  
[3] **Q.** Good afternoon, Officer Seabron.  
[4] **A.** Good afternoon.  
[5] **MR. GIULIANI:** May I approach the  
[6] witness?  
[7] **THE COURT:** Yes.  
[8] **BY MR. GIULIANI:**  
[9] **Q.** You came to the 500 block of Mifflin for the white  
[10] Nissan Altima; is that correct?  
[11] **A.** Yes.  
[12] **Q.** You were in the patrol car?  
[13] **A.** Yes.  
[14] **Q.** From which direction did you come, could you show  
[15] the jury on the map, please?  
[16] **A.** I came south on 6th.  
[17] **Q.** That would be in this direction, right?  
[18] **A.** Yes, sir.  
[19] **Q.** That's with traffic?  
[20] **A.** Yes.  
[21] **Q.** And then east on Mifflin. And that would have  
[22] been a left turn?  
[23] **A.** Yes.  
[24] **Q.** And did you park the cruiser behind --  
[25] **A.** Yes, behind the Nissan Altima.

[1]  
[2] **Q.** And you told the jury you did not see Birch's car  
[3] there?  
[4] **A.** That's correct.  
[5] **Q.** So when you went south on 6th, made a left on  
[6] Mifflin, saw the white Nissan and there's no police  
[7] cruiser between 524 and Mifflin and 6th and Mifflin,  
[8] correct?  
[9] **A.** I don't remember seeing it.  
[10] **Q.** Otherwise there's one lane of traffic, correct?  
[11] **A.** Yes.  
[12] **Q.** If there was a cruiser there, you would not be  
[13] able to get around it?  
[14] **A.** Yes.  
[15] **Q.** Did you learn that Birch was on the 600 block of  
[16] Mifflin, did you see that?  
[17] **A.** I don't remember where he was.  
[18] **Q.** There was a lot of police activity that morning,  
[19] right?  
[20] **A.** Yes.  
[21] **MR. GIULIANI:** Your Honor, may this  
[22] be marked Defense Exhibit 4, please?  
[23] **THE COURT:** Yes.  
[24] **THE COURT CRIER:** Marking exhibit  
[25] D-4.

[1]  
[2] (Interview marked Defense Exhibit 4 for identification.)  
[3] **BY MR. GIULIANI:**  
[4] **Q.** Officer, please take a look at D-4, when you've  
[5] had the opportunity to, let me know, please.  
[6] **A.** Yes.  
[7] **Q.** Tell the members of the jury what that is, Officer  
[8] Seabron.  
[9] **A.** That's an interview I gave to South Detectives.  
[10] **Q.** And that's to Detective Conn, the assigned in this  
[11] case, right?  
[12] **A.** Yes.  
[13] **Q.** Now, the statement is dated March 20th, 2007 and  
[14] given about 6:40 a.m.; is that right?  
[15] **A.** Yes.  
[16] **Q.** Okay.  
[17] Now, it's not signed by you, is it?  
[18] **A.** No.  
[19] **Q.** But you do recall sitting down and having an  
[20] interview with Detective Conn on that date and time?  
[21] **A.** Right.  
[22] **Q.** So it's 13 days post-incident, correct?  
[23] **A.** Yes.  
[24] **Q.** And he asked you questions and frankly there is  
[25] only one paragraph of words on there, right?

[1]  
[2] **A.** Yes.  
[3] **Q.** I want to focus on the line that begins with this,  
[4] "There was white Nissan," this is four lines down, a  
[5] license number, "driver's door open."  
[6] You told that to Detective Conn?  
[7] **A.** Yes, I did.  
[8] **Q.** The next sentence, "the engine is still running,"  
[9] you told that to Detective Conn?  
[10] **A.** Yes.  
[11] **Q.** The car was still in gear?  
[12] **A.** Yes.  
[13] **Q.** You told them you put it in park, you told that to  
[14] counsel?  
[15] **A.** Yes.  
[16] **Q.** "I noticed a dark colored semi-automatic handgun  
[17] on the driver's seat."  
[18] **A.** Yes.  
[19] **Q.** Is that accurate?  
[20] **A.** That's where I left the weapon, but it was on the  
[21] floor.  
[22] **Q.** But you'll agree with me in the statement it  
[23] doesn't say; "I noticed a weapon on the floor, I picked  
[24] it up"?  
[25] **A.** Yes.

[1]  
[2] **Q.** "I picked it up and put it on the driver's seat,"  
[3] correct?  
[4] **A.** Correct.  
[5] **Q.** The statement says you noticed it on the driver's  
[6] seat?  
[7] **A.** Yes.  
[8] **Q.** So let's make sure the truth is you saw it on the  
[9] floor of the driver's side of the vehicle, correct?  
[10] **A.** Yes.  
[11] **Q.** You picked it up and placed it on the driver's  
[12] seat?  
[13] **A.** Yes.  
[14] **Q.** When you picked it up, were you wearing gloves?  
[15] **A.** No.  
[16] **Q.** Did you grab it, like grab it or pick it up with  
[17] two fingers; do you recall?  
[18] **A.** I don't remember how I moved it.  
[19] **MR. GIULIANI:** Thank you, officer.  
[20] **THE COURT:** Anything else?  
[21] **MS. BARALDI:** Yes.  
[22] ---  
[23] REDIRECT EXAMINATION  
[24] ---  
[25] **BY MS. BARALDI:**

[1]  
[2] **Q.** Do you remember speaking with Officer Birch and he  
[3] coming back on the scene?  
[4] **A.** That same day, I don't remember if I spoke with  
[5] him or not.  
[6] **Q.** So you don't have any recollection of Officer  
[7] Birch arriving back to get his car?  
[8] **A.** I don't remember.  
[9] **Q.** You don't remember.  
[10] **MS. BARALDI:** Okay. Thank you.  
[11] **MR. GIULIANI:** May I have one  
[12] question?  
[13] **THE COURT:** Yes.  
[14] ---  
[15] RE-CROSS-EXAMINATION  
[16] ---  
[17] **BY MR. GIULIANI:**  
[18] **Q.** When you moved the car, were there any other  
[19] fellow officers right there on the scene?  
[20] **A.** No.  
[21] **Q.** Just you?  
[22] **A.** Yes.  
[23] **MR. GIULIANI:** Thank you.  
[24] **THE COURT:** Anything else, ma'am?  
[25] **MS. BARALDI:** No, Your Honor.

[1]  
[2] **THE COURT:** You may step down, sir.  
[3] (Witness excused.)  
[4] ---  
[5] **THE COURT:** You may call your next  
[6] witness.  
[7] **MS. BARALDI:** The next witness is  
[8] Police Officer McGough.  
[9] **THE COURT CRIER:** Please state your  
[10] name, spell your last name, badge number, and  
[11] assignment for the record.  
[12] **THE WITNESS:** Police Officer Raphael  
[13] J McGough, Badge No. 5464, I work in the 4th  
[14] District.  
[15] **POLICE OFFICER RAPHAEL MCGOUGH,**  
[16] after having been first duly sworn, was examined  
[17] and testified as follows:  
[18] ---  
[19] DIRECT EXAMINATION  
[20] ---  
[21] **BY MS. BARALDI:**  
[22] **Q.** Good afternoon, Officer.  
[23] **A.** Good afternoon.  
[24] **Q.** Back on March 7th, 2007 around 5 o'clock in the  
[25] morning were you assigned to the 4th Police District?

[1]  
[2] **A.** That night I was not. I was assigned to 17th  
[3] District as Greys Ferry, beat four, it was a detail.  
[4] **Q.** So your response would have been to a radio to  
[5] assist officer shots fired?  
[6] **A.** That's correct.  
[7] **Q.** And when you arrived at 720 Mifflin Street, at  
[8] some point were you in the backyard?  
[9] **A.** Yes, I was.  
[10] **Q.** Were you with Officer Nolan?  
[11] **A.** Yes.  
[12] **Q.** And could you describe to the ladies and gentlemen  
[13] what, if any, actions you took in the rear yard?  
[14] **A.** Based on information I received from another  
[15] officer I went out to -- there was like a cement shed  
[16] or concrete shed and when I looked inside there was a  
[17] pile -- a little pile of leaves and underneath you  
[18] could see what looks to be a gun, and it turned out  
[19] there was a handgun in that shed.  
[20] **Q.** And did you remove the gun?  
[21] **A.** I don't remember which one of us moved it, but I  
[22] remember it was moved to, like, a shelf there, like a  
[23] ledge.  
[24] **Q.** And when you say which one of us, you or who else?  
[25] **A.** Myself or Officer Nolan.



[1]  
[2] **MS. BARALDI:** And if I could have  
[3] this one marked as C-16.  
[4] (Handgun marked Commonwealth's Exhibit 16 for  
[5] identification.)  
[6] **BY MS. BARALDI:**  
[7] **Q.** Officer, what is C-16?  
[8] **A.** It's a semi-automatic handgun.  
[9] **Q.** And does that look like the gun you seen in the  
[10] shed?  
[11] **A.** Yeah, it looks like it.  
[12] **Q.** But you didn't put that on the property receipt;  
[13] is that fair to say?.  
[14] **A.** That's fair to say.  
[15] **Q.** That was done by Crime Scene?  
[16] **A.** I don't know who did it.  
[17] **Q.** It wasn't done by you?  
[18] **A.** It wasn't me.  
[19] **MS. BARALDI:** Thank you. I don't  
[20] have any further questions.  
[21] **THE COURT:** Cross-examination?  
[22] **MR. GIULIANI:** I apologize, I have  
[23] no questions for you, sir.  
[24] **THE WITNESS:** Okay.  
[25] **THE COURT:** You may step down, sir.

[1]  
[2] **THE WITNESS:** Thank you, Your Honor.  
[3] (Witness excused.)  
[4] ---  
[5] **THE COURT:** You may proceed, ma'am.  
[6] **MS. BARALDI:** The Commonwealth  
[7] proceeds to call Police Officer Carol Jenkins.  
[8] **THE COURT CRIER:** Please state your  
[9] name, spell your last name, badge number, and  
[10] district.  
[11] **THE WITNESS:** Police Officer Carol  
[12] Jenkins, Badge No. 4444, from the 4th District.  
[13] **POLICE OFFICER CAROL JENKINS,** after  
[14] having been first duly sworn, was examined and  
[15] **testified as follows:**  
[16] ---  
[17] **DIRECT EXAMINATION**  
[18] ---  
[19] **BY MS. BARALDI:**  
[20] **Q.** Good afternoon, Officer.  
[21] **A.** Good afternoon.  
[22] **Q.** Back on March 7th, 2007, were you detailed to the  
[23] 4th district then as well?  
[24] **A.** That's correct.  
[25] **Q.** Were you working alone or with a partner?

[1]  
[2] **A.** With a partner.  
[3] **Q.** What's your partner's name?  
[4] **A.** Kevin Baldwin.  
[5] **Q.** Did you operate a radio control car?  
[6] **A.** We usually drive EPW-400, emergency patrol wagon.  
[7] **Q.** Were you operating the wagon that night?  
[8] **A.** Yes, we were.  
[9] **Q.** Did you respond to the location of 7th and  
[10] Mifflin?  
[11] **A.** Yes, we did.  
[12] **Q.** Can you tell the ladies and gentlemen, what, if  
[13] any, action did you take?  
[14] **A.** As we were approaching, there were officers in  
[15] foot pursuit. When we got to the area of 6th and  
[16] Mifflin, there had been one male apprehended and  
[17] basically with the wagon we were picking that prisoner  
[18] up.  
[19] **Q.** And what, if anything, happened next?  
[20] **A.** When we picked the prisoner up?  
[21] **Q.** Yes.  
[22] **A.** It's standard procedure to search the individual  
[23] before placing them in the wagon.  
[24] **Q.** Was anything recovered from him?  
[25] **A.** He was sitting on a hoodie, which was part of the

[1]  
[2] flash that was put out, it was a green hoodie, so we  
[3] picked that up.  
[4] And during the search inside of the front pouch of  
[5] the hoodie I found latex finger tips from a glove and  
[6] the male had a standard rubberband on the right wrist  
[7] and had a rolled band which is typical from a latex  
[8] glove, completely rolled off, white color, and it  
[9] matched the latex tips in the pouch.  
[10] **Q.** After you picked up that male, did you then  
[11] proceed to the area of 5th and Mifflin?  
[12] **A.** Yes, we did. There was another person we needed  
[13] to pick up there.  
[14] **Q.** Do you see that person today?  
[15] **A.** Yes, I do (indicating).  
[16] **MS. BARALDI:** Indicating the  
[17] defendant, for the record.  
[18] **THE COURT:** The record will so  
[19] reflect.  
[20] **BY MS. BARALDI:**  
[21] **Q.** Do you remember what he was wearing at that point  
[22] in time?  
[23] **A.** This male would have been in a blue -- it was a  
[24] camouflage patten of a hoodie.  
[25] **Q.** And I am going to show you what we marked as C-10

[1]  
[2] and C-13. Do you recognize C-10?  
[3] **A.** Yes. This is where the latex glove fingerprints  
[4] were.  
[5] **Q.** And C-13?  
[6] **A.** This would be the hoodie I observed him in.  
[7] **Q.** Now, as part of your duties, Officer Jenkins, do  
[8] you fill out any police paperwork?  
[9] **A.** Yes. It's standard procedure when we take any  
[10] prisoners in custody, we have to fill out a form called  
[11] a 75-229, which is biological information of any  
[12] individual and a medical checklist.  
[13] **Q.** The biographical information that you get, who do  
[14] you get the information from?  
[15] **A.** From the person itself, from the defendant.  
[16] **MS. BARALDI:** If I could have this  
[17] marked as C-17.  
[18] (Biographical information report marked Commonwealth's  
[19] Exhibit 17 for identification.)  
[20] **BY MS. BARALDI:**  
[21] **Q.** Officer, if we could start with C-17.  
[22] **A.** Okay.  
[23] **Q.** What is it?  
[24] **A.** This is the 229 that my partner filled out for  
[25] Mr. Jerry Jean.

[1]  
[2] **Q.** And is there an address there?  
[3] **A.** There is an address of 313 Clarkson Avenue,  
[4] Philadelphia, Pennsylvania, 19120.  
[5] (Report marked Exhibit 18 for identification.)  
[6] **Q.** And as regard to C-18?  
[7] **A.** Okay. This is a biographical for Mr. Lin.  
[8] **Q.** Is Lin the name of the defendant at that point?  
[9] **A.** Yeah, and I asked him to spell it and he told me  
[10] L-I-N, and I wrote it down. And later on when we were  
[11] at the holding facility, the corporal come in to check  
[12] a medical checklist and ask the defendant and he said  
[13] his name was not L-I-N, it was I-N.  
[14] **Q.** And what is the address that this defendant gave  
[15] that night?  
[16] **A.** He gave an address of 5246 Rorer Street,  
[17] Philadelphia, Pennsylvania, 19120.  
[18] **Q.** And if we could go back quickly to Jerry Jean's  
[19] 75-229, he gives his height as what?  
[20] **A.** He gave his height as 6 foot.  
[21] **Q.** And his weight?  
[22] **A.** 190.  
[23] **Q.** And John Lin or John In, his height is what?  
[24] **A.** Five-nine, 165.  
[25] **Q.** And the date of birth for Jerry Jean?

[1]  
[2] **A.** His date of birth is 3/9/84.  
[3] **Q.** And for John In?  
[4] **A.** 8/5/83.  
[5] **MS. BARALDI:** Thank you. I don't  
[6] have any further questions.  
[7] **THE COURT:** Mr. Giuliani?  
[8] **MR. GIULIANI:** Thank you.  
[9] ---  
[10] **CROSS-EXAMINATION**  
[11] ---  
[12] **BY MR. GIULIANI:**  
[13] **Q.** The male with the latex that you saw that was  
[14] Jerry Jean?  
[15] **A.** That's correct.  
[16] **Q.** And you had the opportunity to see Mr. Jean and my  
[17] client together?  
[18] **A.** That's correct.  
[19] **Q.** Mr. Jean is larger than my client?  
[20] **A.** Yes.  
[21] **Q.** And would you agree having see Mr. Jean, he is 6  
[22] foot or bigger than that?  
[23] **A.** I really don't recall. I -- like I said, my  
[24] partner did the boy. I don't recall if he was taller  
[25] than that, he was taller than me, that's all I know.

[1]  
[2] **Q.** When you take him to the station theres's not a  
[3] chart that you can measure?  
[4] **A.** That's information given by the male being  
[5] detained. There is a chart, I don't know whether CCTV  
[6] uses that.  
[7] **MR. GIULIANI:** Thank you, Officer.  
[8] That's all I have.  
[9] **MS. BARALDI:** No further questions.  
[10] **THE COURT:** Thank you, ma'am.  
[11] (Witness excused.)  
[12] ---  
[13] **MS. BARALDI:** At this time the  
[14] Commonwealth would be calling Sergeant Aponte.  
[15] **THE COURT CRIER:** Please state your  
[16] name, spell your last name, badge number, and unit  
[17] of assignment.  
[18] **THE WITNESS:** Sergeant Wilfredo  
[19] Aponte, A-P-O-N-T-E, Badge No. 8819, assigned to  
[20] the Crime Scene Unit.  
[21] **SERGEANT WILFREDO APONTE,** after having been  
[22] first duly sworn, was examined and testified as follows:  
[23] ---  
[24] **DIRECT EXAMINATION**  
[25] ---

[1]  
[2] **BY MS. BARALDI:**  
[3] **Q.** Good afternoon, Sergeant Aponte.  
[4] **A.** Good afternoon.  
[5] **Q.** Back on March 7th, 2007, were you assigned to  
[6] Mobile Crimes scene then?  
[7] **A.** Yes, I was.  
[8] **Q.** Were you working alone or with a partner?  
[9] **A.** Police Officer Avon Wilson, Badge No. 9736.  
[10] **Q.** And were you called to investigate a scene at 720  
[11] West Mifflin Street?  
[12] **A.** That's correct.  
[13] **Q.** And that was as a result of a home  
[14] invasion/robbery?  
[15] **A.** Home invasion/robbery, and police discharge, which  
[16] took place in the yard of that location.  
[17] **Q.** So the police discharge that would have brought  
[18] you there?  
[19] **A.** That's correct.  
[20] **Q.** Tell the ladies and gentlemen what you do as part  
[21] of the Crime Scene Unit?  
[22] **A.** Our main function is to respond to scenes of a  
[23] crime. And usually we are summoned by detectives.  
[24] Once they get to the scene they evaluate it and  
[25] determine whether they need our services. And we are

[1]  
[2] responsible for photographing the scene, sketching the  
[3] scene, and looking for and recovering any evidence that  
[4] may be on the scene. If there is latent prints to be  
[5] done, we also take care of that.  
[6] And once we retrieve the evidence, our job is to  
[7] place it on the property receipt and submit it to  
[8] firearms, criminalistics, or send it to City Hall for  
[9] future court presentation.  
[10] **Q.** Okay.  
[11] **MS. BARALDI:** If I could have this  
[12] marked C-19?  
[13] (Photograph marked Commonwealth's Exhibit 19 for  
[14] identification.)  
[15] **BY MS. BARALDI:**  
[16] **Q.** I am going to start with the scene at 500 Mufflin,  
[17] if you could describe what the picture shows?  
[18] **A.** Okay. Starting with the exhibit which is marked  
[19] "U," it's a view of the recovered partial rubber glove  
[20] and on the 600 block.  
[21] And there is the 500 block, and here is the  
[22] exhibit marked "V" is the view east showing a white  
[23] vehicle against the residence of the 500 block of  
[24] Mifflin. And the car is right here.  
[25] We go to the next exhibit, Exhibit W is the view

[1]  
[2] of the front of the vehicle against a 524 West Mifflin  
[3] Street and it's resting against the front of it.  
[4] This is exhibit marked "X," overall view of the  
[5] driver's side vehicle.  
[6] Exhibit Y is the view of the passenger's side of  
[7] the vehicle.  
[8] And Exhibit C is a closeup view of a recovered  
[9] semi-automatic weapon in the front seat of the car  
[10] right there.  
[11] And Exhibit AA is the view of a rubber glove in  
[12] the front console area.  
[13] And this one is showing a CVS box of latex gloves  
[14] in the rear seat of that vehicle.  
[15] **Q.** And this alleyway, which I guess I did it  
[16] backwards, where's that rear alley?  
[17] **A.** This is in the rear. This is Exhibit T, the east  
[18] view in the rear alley which is directly behind the  
[19] property which is considered the south side. He's  
[20] taking the photograph from 720 West Mifflin looking  
[21] east down the alley. This is what you see, a bunch of  
[22] debris.  
[23] **MS. BARALDI:** And if we could have  
[24] this marked as C-20?  
[25] (Photograph marked Commonwealth's Exhibit 20 for

[1]  
[2] identification.)  
[3] **THE WITNESS:** The first one, upper  
[4] left, is the Exhibit A, the view in front of 720  
[5] West Mifflin.  
[6] And this Exhibit B, the view of the  
[7] front sidewalk in front of 720 Mifflin.  
[8] And taking a picture looking west  
[9] Exhibit C is a close view of the locks on the  
[10] storm door, it shows there is no damage to it.  
[11] And Exhibit D is a view of a locked  
[12] steel gate of 720 Mifflin Street.  
[13] And Exhibit E, is the bars in the  
[14] rear kitchen pulled apart.  
[15] And Exhibit F is a view of the  
[16] stairs leading up to the second floor hallway.  
[17] And Exhibit G is a view looking  
[18] north from the top of the stairs looking towards  
[19] the front bedroom area.  
[20] **MS. BARALDI:** If I may mark this as  
[21] C-21?  
[22] **THE COURT CRIER:** Marking Exhibit  
[23] C-21.  
[24] (Photograph marked Commonwealth's Exhibit 21 for  
[25] identification.)

[1]  
[2] **THE WITNESS:** Starting with Exhibit  
[3] H, is a view inside of the front bedroom looking  
[4] back towards the rear hallway area.  
[5] Exhibit I, a view north of the  
[6] bedroom itself.  
[7] Exhibit J, is a view west in the  
[8] bedroom showing a wooden closet.  
[9] **BY MS. BARALDI:**  
[10] **Q.** Is that the same closet Dyshon Marable was found  
[11] in?  
[12] **A.** I wasn't there for that.  
[13] **Q.** Okay.  
[14] **A.** Exhibit K, a view of the west window in the rear  
[15] bedroom. The blinds are pulled apart and the windows  
[16] are in an up position.  
[17] Exhibit L is a view looking southwest, 722 West  
[18] Mifflin Street rear yard.  
[19] **THE COURT:** Is that L?  
[20] **THE WITNESS:** That is L. And there  
[21] is a west 3-foot alley behind the home.  
[22] Exhibit M, is a view straight down  
[23] from the window of the second floor bedroom.  
[24] Exhibit N, is a view towards the  
[25] rear yard of 720 West Mifflin Street, and there's

[1]  
[2] a note evidence marker No. 1, which is a recovered  
[3] .9 mm fired cartridge casing.  
[4] Exhibit O, is a view northwest in  
[5] the rear yard, showing a recovered .9 mm fired  
[6] cartridge case circled by the white chalk.  
[7] Exhibit P, is a view of a shelter of  
[8] where the semi-automatic was found. It was here  
[9] were marker No. 2 is.  
[10] And this would be a close-up view of  
[11] the weapon, next to marker No. 2.  
[12] And Exhibit R, is a view west in the  
[13] alley from 720 West Mifflin Street. Earlier I  
[14] showed you the one looking east and this is one  
[15] looking the other direction, west.  
[16] And Exhibit S, is a close view of  
[17] recovered rubber glove which was in the rear alley  
[18] west of 720 West Mifflin Street.  
[19] **MS. BARALDI:** Your Honor, can I  
[20] approach?  
[21] **THE COURT:** Yes.  
[22] **BY MS. BARALDI:**  
[23] **Q.** So this picture you see here, picture letter "N,"  
[24] is this the backyard or the side alley?  
[25] **A.** That is the side alley.

[1]  
[2] **Q.** So if you were to come out of the kitchen door,  
[3] this would be what you would see; is that fair to say?  
[4] **A.** Yes.  
[5] **Q.** And then picture "O," this corner right here,  
[6] where I guess the evidence marker 1, that's actually  
[7] the rear yard, correct?  
[8] **A.** That's correct.  
[9] **Q.** And around the corner would be what?  
[10] **A.** This particular area here, where you can see the  
[11] three pieces of it lined up.  
[12] **Q.** Okay.  
[13] And "Q" is actually a close-up of this cement shed  
[14] that everyone was going to which is also "P?"  
[15] **A.** Which is in the southeast corner of the yard.  
[16] **Q.** And all of this debris would have been in at the  
[17] time you got there, correct?  
[18] **A.** That's correct.  
[19] **Q.** As part of the Mobile Crime Scene you actually  
[20] recovered the weapons in this case?  
[21] **A.** Yes, we did.  
[22] **Q.** And you placed them on a property receipt?  
[23] **A.** Yes, they were placed on a property receipt.  
[24] **MS. BARALDI:** If I can, this will be  
[25] C-22 I believe.

[1]  
[2] (Property receipt marked Commonwealth's Exhibit 22 for  
[3] identification.)  
[4] **BY MS. BARALDI:**  
[5] **Q.** Sergeant, what is C-22?  
[6] **A.** C-22 is a property receipt, which is marked  
[7] 9006283, and it contains a description of the two  
[8] weapons that were recovered at the scene.  
[9] **Q.** And what are those descriptions?  
[10] **A.** Item No. 1 is .9 mm pistol, Zig Zauer, six black  
[11] with a serial number of U370260. And in parenthesis  
[12] there was an attempt to scratch out the serial number.  
[13] And they had 14 live rounds in the magazine and one  
[14] live round in the chamber. And that was found in the  
[15] front seat of the Altima with a PA tag of GRC-O883 and  
[16] that was in front of 524 west Mifflin Street.  
[17] Item No. 2 on this property receipt is a .9 mm  
[18] pistol, a P-200, with Serial No. 0121001353, and it  
[19] contained the live rounds in the magazine and one live  
[20] round in the chamber, and it was found in the rear yard  
[21] of 720 West Mifflin Street, which is item No. 2.  
[22] **MS. BARALDI:** If I could have the  
[23] witness shown C-14, please.  
[24] **BY MS. BARALDI:**  
[25] **Q.** Do you recognize C-14?



[1]  
[2] **A.** Yes. This is the Zig Zauer that was found inside  
[3] of the white Altima in the front seat.  
[4] **Q.** And in that envelope attached to the weapon?  
[5] **A.** In this envelope is the live rounds that were  
[6] found in the gun itself.  
[7] **Q.** Is the magazine in the box itself?  
[8] **A.** The magazine here, which obviously goes in here.  
[9] **Q.** And then this would be C-16. What is C-16?  
[10] **A.** C-16 is the gun that was recovered in the rear  
[11] yard of 720 Mifflin Street. And in the envelope it  
[12] contains the live rounds that were found in the weapon,  
[13] and this is the magazine that goes to the weapon.  
[14] **Q.** And that had nine live rounds in it and one in the  
[15] chamber?  
[16] **A.** That's correct.  
[17] **Q.** You also recovered the .9 mm fired cartridge  
[18] casing too; is that fair to say?  
[19] **A.** Yes, we did.  
[20] **Q.** And that would have been fired from Officer  
[21] Battles' weapon?  
[22] **A.** That's correct.  
[23] **MS. BARALDI:** Now, if I could have  
[24] this marked -- Court's indulgence one second.  
[25] (Pause.)

[1]  
[2] marked on C-12?  
[3] **A.** Well, what we have here is the red markers  
[4] indicating the alleyway which is in the rear of 720  
[5] West Mifflin Street. Two properties over in the rear  
[6] alley is where we found latex gloves. This indicates  
[7] the alleys that are behind and alongside the  
[8] properties.  
[9] **Q.** And what was item No. 2 on the property receipt?  
[10] **A.** Item No. 2 is a latex glove, white, which was  
[11] found in the front vestibule on 720 West Mifflin  
[12] Street.  
[13] Item No. 3 is a piece of latex gloves found on the  
[14] highway, 600 block of West Mifflin Street.  
[15] **A.** And also on this property receipt was a list of  
[16] four swabs taken from the weapons.  
[17] Item No. 4 was a swab taken from item No. 4 which  
[18] is on Property Receipt No. 9006283.  
[19] Item No. 5 was a swab taken from Item No. 2 on  
[20] Property Receipt No. 9002683, which is the P-2000 .9 mm  
[21] pistol.  
[22] Item No. 6 is a swab taken from a live round which  
[23] was in the chamber of item No. 1 on Property Receipt  
[24] No. 9006283.  
[25] And item No. 7 was a swab taken from the live

[1]  
[2] **MS. BARALDI:** If I could have this  
[3] marked as C-23?  
[4] (Property receipt marked Commonwealth's Exhibit 23 for  
[5] identification.)  
[6] **BY MS. BARALDI:**  
[7] **Q.** Now, in addition to recovering the fired cartridge  
[8] casings, and the weapons, you recovered the latex  
[9] gloves in that picture; is that fair to say?  
[10] **A.** That's correct.  
[11] **Q.** Did you place them on the property receipt?  
[12] **A.** Yes, 9006285.  
[13] **Q.** And in addition to those latex gloves. If you  
[14] could remind everybody where they were recovered from?  
[15] **A.** Sure. The first one, the latex glove which was  
[16] the one I showed you was in the rear alley behind 720  
[17] West Mifflin Street.  
[18] **MS. BARALDI:** If I could show the  
[19] witness what's been previously marked C-12?  
[20] **THE WITNESS:** It's actually Exhibit  
[21] S, rubber glove recovered on 720 West Mifflin  
[22] Street which is item No. 1.  
[23] **BY MS. BARALDI:**  
[24] **Q.** Okay.  
[25] And is that also shown on this map previously

[1]  
[2] round in the chamber of item No. 2 on Property Receipt  
[3] No. 9006283. That was DNA swabbing.  
[4] **Q.** Now, when you take a swab from a handgun, what's  
[5] the process?  
[6] **A.** The process is to take a sample of swabbing from  
[7] where the grips would be at to where -- on the weapon  
[8] and alongside where the slide is where you pull back  
[9] at. That's placed in an enveloped and shipped off to a  
[10] DNA laboratory.  
[11] **Q.** What about a live round?  
[12] **A.** Live round, we would swab the rear area where  
[13] somebody would push it on the weapon and on the casing  
[14] itself.  
[15] **MS. BARALDI:** If I could have this  
[16] marked as C-24?  
[17] (Report marked Commonwealth's Exhibit 24 for  
[18] identification.)  
[19] **BY MS. BARALDI:**  
[20] **Q.** Do you recognize C-24?  
[21] **A.** Yes. C-24 is Crime Scene Unit service report and  
[22] basically it describes the services that we performed  
[23] at that location, 720 West Mifflin Street and 524 West  
[24] Mifflin Street.  
[25] **Q.** And on the third page it talks about a latent

[1]  
[2] examination.  
[3] **A.** Yes.  
[4] **Q.** Can you please explain that to the ladies and  
[5] gentlemen.  
[6] **A.** In this particular -- when an examination is taken  
[7] on the weapons basically what we do is look at it on  
[8] the magnifying glass without putting any chemicals or  
[9] Super Glue on it to see if there are any latent prints  
[10] on them.  
[11] And then we place them in the fuming tank, a Super  
[12] Glue tank, they release warm water into the atmosphere  
[13] and Super Glue packets, and the moisture from your  
[14] hands and residue left on the hand or anything on the  
[15] weapon itself would turn to a white powder color.  
[16] We would then take it out of the chamber and  
[17] examine it. If there's anything that resembles ridges,  
[18] we would then place black powder on it and try to lift  
[19] it to see if we have fingerprints.  
[20] **Q.** Were any prints able to be seen on these weapons  
[21] in this case?  
[22] **A.** There were none.  
[23] **MS. BARALDI:** If I could have this  
[24] marked C-25 and C-26.  
[25] (Map marked Commonwealth's Exhibit 25 for identification.)

[1]  
[2] Rorer Street.  
[3] **THE COURT:** Could you spell that  
[4] last street name.  
[5] **THE WITNESS:** R-O-R-E-R.  
[6] **BY MS. BARALDI:**  
[7] **Q.** And do you know how far those addresses are?  
[8] **A.** Between the addresses it's .8 miles.  
[9] **MS. BARALDI:** Thank you, sir.  
[10] **THE COURT:** Cross-examination?  
[11] ---  
[12] CROSS-EXAMINATION  
[13] ---  
[14] **BY MR. GIULIANI:**  
[15] **Q.** Good afternoon, Sergeant.  
[16] **A.** Good afternoon.  
[17] **Q.** Let's start backwards with C-26. Those two  
[18] addresses that are highlighted on that map, do you know  
[19] whose address they are?  
[20] **A.** I personally do not.  
[21] **Q.** Okay.  
[22] Between those addresses and in that area, can you  
[23] tell me how many people live in that area?  
[24] **A.** I couldn't tell you that.  
[25] **Q.** It looks like a lot, a lot of houses. How high up

[1]  
[2] (Aerial map marked Commonwealth's Exhibit 26 for  
[3] identification.)  
[4] **BY MS. BARALDI:**  
[5] **Q.** C-26, what does that show?  
[6] **A.** It shows an area of the map which shows 720  
[7] Mifflin Street where it's at here indicated by a red  
[8] marker, and also 313 East Parkson Avenue which is  
[9] located in the 19120 zip code, along with 5246 Rorer  
[10] Street, which is 19120 zip code. And it's .8 miles in  
[11] a straight line from 720 Mifflin to that particular  
[12] area.  
[13] **Q.** And those two addresses, the address on Clarkson  
[14] or Rorer, what police district is that?  
[15] **A.** They are in the 35th Police District.  
[16] **Q.** Do you know what neighborhood of the city that is?  
[17] **A.** I am not sure the name in the city its called, but  
[18] it's north of the Boulevard.  
[19] **Q.** And if you could look at C-26 for me, what is  
[20] C-26?  
[21] **A.** C-26 is a computer-generated, overall view showing  
[22] how it would look from the sky. And what you'll see if  
[23] I can show you, you have Rising Sun Avenue here and  
[24] Clarkson Street, which runs here east and west, Tacony  
[25] Park in this area, and then down here you have 5246

[1]  
[2] is this, by the way? Can you tell how high up this is  
[3] in the air?  
[4] **A.** It's a satellite image.  
[5] **Q.** It's pretty high.  
[6] **A.** Yes, it is.  
[7] **Q.** Now, Sergeant, the photo arrays, Exhibits 19, 20,  
[8] and 21, with all of the photographs you were just  
[9] talking about, are those the sum of all of the photos  
[10] that were took?  
[11] **A.** What's on these three boards?  
[12] **Q.** Yes.  
[13] **A.** No, we took a total of 35 photographs.  
[14] **Q.** Did you take any of the basement of this  
[15] residence?  
[16] **A.** No, we did not.  
[17] **Q.** Any reason you did not take anything of the  
[18] basement?  
[19] **A.** No reason at all.  
[20] **Q.** Were you told there was supposedly a man that had  
[21] somebody down in the basement?  
[22] **A.** We did not have that information, no.  
[23] **Q.** And those photographs that were taken, was that  
[24] the day after the incident?  
[25] **A.** That's correct.

[1]  
[2] **Q.** A couple hours afterwards?  
[3] **A.** Yes. We arrive on location at 6:40 a.m. and  
[4] departed at 9:45 am.  
[5] **MR. GIULIANI:** May I approach,  
[6] please?  
[7] **THE COURT:** Yes.  
[8] **BY MR. GIULIANI:**  
[9] **Q.** Sergeant, I am going to put back up on the easel  
[10] Commonwealth's Exhibit No. 19, and there are four  
[11] photographs from there that show the white Altima. Do  
[12] you see that?  
[13] **A.** There's actually three that show the outside of  
[14] the Altima and there's three interior shots.  
[15] **Q.** Thank you.  
[16] Now, the location of the Altima in these three  
[17] photographs, "W," "X," and "Y," is that how you found  
[18] it when you arrived on the scene?  
[19] **A.** That's correct.  
[20] **Q.** Did you notice any -- but aside from the  
[21] photographs, but did you notice any substantial front  
[22] end damage to the Altima?  
[23] **A.** No. We did not see any substantial damage, no.  
[24] **Q.** So there's nothing that would indicate that this  
[25] Altima was going at a high speed and crashed into a

[1]  
[2] house?  
[3] **A.** No.  
[4] **Q.** No shattered lights, bumpers, no broken glass, or  
[5] anything like that?  
[6] **A.** No.  
[7] **Q.** Now, you also testified about two gloves that were  
[8] recovered. Let's go backwards, if I may.  
[9] **MR. GIULIANI:** May I approach the  
[10] Sergeant with C-12?  
[11] **THE COURT:** You may.  
[12] **BY MR. GIULIANI:**  
[13] **Q.** This is that aerial shot that we have been  
[14] speaking about, the jurors have seen. Can you point to  
[15] the house we are talking about, 720?  
[16] **A.** 720 is marked as 720.  
[17] **Q.** Now, if someone was to go outside into the alley  
[18] and run this direction, they would be going eastbound,  
[19] correct?  
[20] **A.** That's correct.  
[21] **Q.** The glove found in the alley is found behind 724  
[22] Mifflin, correct?  
[23] **A.** That's correct.  
[24] **Q.** That would be two houses to the west?  
[25] **A.** That's correct.

[1]  
[2] **Q.** The glove is over here, but Mr. Jean is someplace  
[3] over here when he is arrested, right?  
[4] **A.** I wouldn't have knowledge of that.  
[5] **Q.** In your opinion, the location of the glove in the  
[6] alley behind 724 Mifflin would that be far enough where  
[7] someone went in the alley and threw it one direction  
[8] and ran the other direction?  
[9] **A.** That would be hard to say.  
[10] **Q.** Okay.  
[11] Do you recall the distance between the back of 720  
[12] and the back of 724 where that glove was found?  
[13] **A.** It's approximately 30 feet.  
[14] **Q.** Thirty feet. Okay.  
[15] You also found a second glove in the vestibule of  
[16] 720 Mifflin?  
[17] **A.** That's correct.  
[18] **Q.** Now, it's not photographed, right?  
[19] **A.** No, it's not.  
[20] **Q.** But you saw or you showed the jury the photo of a  
[21] front door, a storm door?  
[22] **A.** Yes.  
[23] **Q.** And you entered the property, obviously, correct?  
[24] **A.** Yes, we did.  
[25] **Q.** So you would open the storm door and enter, and

[1]  
[2] there is an area before you get into the house proper?  
[3] **A.** Correct.  
[4] **Q.** And that's where you found the glove on the floor?  
[5] **A.** Yes.  
[6] **Q.** That was taken and collected for evidence?  
[7] **A.** Yes.  
[8] **Q.** Now, your report indicates that the Zig Zauer was  
[9] the .9 mm pistol found in the Altima was swabbed for  
[10] DNA?  
[11] **A.** Yes, it was.  
[12] **Q.** Did you do that yourself?  
[13] **A.** No, that was Officer Wilson.  
[14] **Q.** Tell the jury, briefly, when you say it's swabbed,  
[15] what is done?  
[16] **A.** Basically you take a cotton swab like a Q-tip and  
[17] you dip it in a water solution. And with that you take  
[18] and swab the back of the weapon, like I said, and also  
[19] the slide which is the top portion of the gun.  
[20] After you do that you stick it into a protected  
[21] covering and place it inside of the envelope and submit  
[22] it to the criminalistics laboratory.  
[23] **Q.** When you say you place it into an envelope, you  
[24] are talking about the swab?  
[25] **A.** The swab itself.

[1]  
[2] **Q.** Not the gun?  
[3] **A.** No.  
[4] **Q.** And this is something you've done many times  
[5] yourself?  
[6] **A.** I have done it, yes.  
[7] **Q.** You spoke to the jury about the latent  
[8] examination, you were looking for the fingerprints on  
[9] the gun.  
[10] **A.** That's correct.  
[11] **Q.** And you didn't find any on either?  
[12] **A.** That's correct.  
[13] **Q.** And, again, looking for fingerprints on a gun is  
[14] something you've done many times?  
[15] **A.** That's correct.  
[16] **Q.** And even though you are not a fingerprint expert,  
[17] you're aware that if someone touches a gun that doesn't  
[18] mean someone is going to leave a print?  
[19] **A.** That's correct.  
[20] **Q.** But if someone is wearing latex gloves and grabs a  
[21] gun, points it, they definitely are not going to leave  
[22] prints?  
[23] **A.** No.  
[24] **Q.** No, they are not or, no, I am wrong?  
[25] **A.** No, they are not going to leave prints if they

[1]  
[2] have gloves on.  
[3] **MR. GIULIANI:** Okay. Court's  
[4] indulgence, please.  
[5] (Pause.)  
[6] **MR. GIULIANI:** That's all I have  
[7] Sergeant. Thank you.  
[8] **THE COURT:** Anything else?  
[9] **MS. BARALDI:** Just one question.  
[10] ---  
[11] REDIRECT EXAMINATION  
[12] ---  
[13] **BY MR. GIULIANI:**  
[14] **Q.** You were in the rear alley behind 720, correct?  
[15] **A.** Correct.  
[16] **Q.** Now, is there away to get out of the alley if you  
[17] are running west, is there an exit going west?  
[18] **A.** Yes, there is.  
[19] **Q.** Where would that be?  
[20] **A.** The actual red arrow is indicating there is a  
[21] alley running right alongside of the property and you  
[22] can get out onto Mifflin Street.  
[23] **Q.** And is there also an exit towards 7th Street?  
[24] **A.** There's also an exit alleyway here, an open area  
[25] here which you could get out.

[1]  
[2] **Q.** And the debris, when we saw the picture, would  
[3] the debris have been going in which direction?  
[4] **A.** It would be east, which is Exhibit T.  
[5] **Q.** And east on this map is which way?  
[6] **A.** East is this direction.  
[7] **Q.** So if somebody was leaving, jumping the fence,  
[8] 720, if they look to the left is the debris and to the  
[9] right is the clear path is where we would see, and to  
[10] the right is where you found the latex glove?  
[11] **A.** Yes.  
[12] **MS. BARALDI:** Thank you.  
[13] **THE COURT:** Anything else?  
[14] **MR. GIULIANI:** No, sir. Thank you.  
[15] **THE COURT:** Thank you, sir. You may  
[16] step down.  
[17] **THE WITNESS:** Thank you, Your Honor.  
[18] (Witness excused.)  
[19] ---  
[20] **MS. BARALDI:** At this time the  
[21] Commonwealth will call Detective Hopkins.  
[22] **THE COURT CRIER:** Please state your  
[23] name, spell your last name, badge number, and  
[24] assignment.  
[25] **THE WITNESS:** Detective John

[1]  
[2] Hopkins, Badge No. 691, South Detective division.  
[3] **DETECTIVE JOHN HOPKINS,** after having  
[4] been first duly sworn, was examined and testified  
[5] as follows:  
[6] ---  
[7] DIRECT EXAMINATION  
[8] ---  
[9] **BY MS. BARALDI:**  
[10] **Q.** Good afternoon, Detective Hopkins.  
[11] **A.** Good afternoon.  
[12] **Q.** You were called in earlier today to take a look at  
[13] a witness.  
[14] **A.** That's correct.  
[15] **Q.** Did you recognize that person?  
[16] **A.** That is Dyshon Marable.  
[17] **Q.** And after this incident were you present when  
[18] Mr. Marable was found in the closet?  
[19] **A.** Yes, I was.  
[20] **MS. BARALDI:** And if I can approach,  
[21] Your Honor?  
[22] **THE COURT:** Yes.  
[23] **BY MS. BARALDI:**  
[24] **Q.** I am showing the witness what has been marked as  
[25] C-21 specifically picture "J." Do you see that,



[1]  
[2] Detective?  
[3] **A.** Yes, I do.  
[4] **Q.** What is that a picture of?  
[5] **A.** A picture of the wardrobe closet where Dyshon  
[6] Marable was secreted.  
[7] **Q.** And he was taken to South Detectives, correct?  
[8] **A.** Yes, he was.  
[9] **Q.** He was Mirandized, correct?  
[10] **A.** Yes, he was.  
[11] **Q.** And he did give a statement?  
[12] **A.** Yes, he did.  
[13] **Q.** And additionally you collected swabs?  
[14] **A.** That's correct.  
[15] **Q.** And if I can -- tell us what a buccal swab is?  
[16] **A.** The swab in question were the DNA collection  
[17] taken, swab of the tongue of the person you are looking  
[18] to obtain DNA evidence from. It's submitted to our DNA  
[19] lab where they will take the sample, code it, and then  
[20] they'll let us know if they come back to a known  
[21] suspect.  
[22] **Q.** And you took a swab from defendant Jerry Jean?  
[23] **A.** I did.  
[24] **MS. BARALDI:** If I could have this  
[25] marked C-27?

[1]  
[2] (Property receipt marked Commonwealth's Exhibit 27 for  
[3] identification.)  
[4] **BY MS. BARALDI:**  
[5] **Q.** What is C-27?  
[6] **A.** C-27 is a copy of a property receipt, Property  
[7] Receipt No. 2720376, which I prepared for the DNA  
[8] sample. That sample was obtained on 12/12/07.  
[9] **Q.** And did you also obtain a buccal swab from the  
[10] defendant, John In?  
[11] **A.** Yes, I did on the same date.  
[12] **MS. BARALDI:** If I could have this  
[13] marked as C-28?  
[14] (Property receipt marked Commonwealth's Exhibit 28 for  
[15] identification.)  
[16] **BY MS. BARALDI:**  
[17] **Q.** What is C-28?  
[18] **A.** Copy of Property Receipt No. 2720377. The  
[19] property receipt for the sample obtained from Defendant  
[20] John In.  
[21] **Q.** And what date was that obtained?  
[22] **A.** That was also 12/12/07.  
[23] **Q.** Did you swab anybody else?  
[24] **A.** No, I did not.  
[25] **MS. BARALDI:** I have no further

[1]  
[2] questions.  
[3] **THE COURT:** You may cross-examine.  
[4] **MR. GIULIANI:** I have no questions,  
[5] Detective.  
[6] **THE COURT:** Thank you, sir. You may  
[7] step down.  
[8] (Witness excused.)  
[9] ---  
[10] **THE COURT:** You may continue.  
[11] **MS. BARALDI:** At this time the  
[12] Commonwealth would be calling Ben Levin from the  
[13] DNA lab.  
[14] **THE COURT:** Does anybody need a  
[15] break before we go forward?  
[16] There's three hands so we'll take a  
[17] break.  
[18] **THE COURT CRIER:** Everyone remain  
[19] seated while the jury exits the courtroom.  
[20] (Jury departs the courtroom at 3:20 p.m.)  
[21] (Short recess.)  
[22] **THE COURT CRIER:** Please remain  
[23] seated while the jury enters the courtroom.  
[24] (Jury enters the courtroom at 3:35 p.m.)  
[25] **THE COURT:** Thank you, ladies and

[1]  
[2] gentlemen. You may be seated.  
[3] **THE JURY:** (Jury panel complies.)  
[4] **THE COURT:** You may continue.  
[5] **MS. BARALDI:** The Commonwealth would  
[6] call Benjamin Levin.  
[7] **THE COURT:** Very well.  
[8] **THE COURT CRIER:** Please remain  
[9] standing, state your full, spell your last name,  
[10] position please.  
[11] **THE WITNESS:** Benjamin Levin,  
[12] Forensic Scientist II.  
[13] BENJAMIN LEVIN, after having been  
[14] first duly sworn, was examined and testified as  
[15] follows:  
[16] ---  
[17] VOIR DIRE EXAMINATION  
[18] ---  
[19] **BY MS. BARALDI:**  
[20] **Q.** Good afternoon.  
[21] **A.** Good afternoon.  
[22] **Q.** Where are you currently employed?  
[23] **A.** City of Philadelphia Police Department, DNA  
[24] Laboratory.  
[25] **Q.** How long have you been so employed?

[1]  
[2] **A.** Five years.  
[3] **Q.** And what's your background educationally  
[4] speaking?  
[5] **A.** I received a Bachelor's of Science from Temple  
[6] University.  
[7] **Q.** And when was that?  
[8] **A.** 1996.  
[9] **Q.** And after that, what did you do?  
[10] **A.** After that I worked in several science-related  
[11] jobs in agriculture, nothing related to this position.  
[12] In addition where my current employment is concerned I  
[13] received additional training which is required for  
[14] on-the-job training for the particular duties of a DNA  
[15] analyst.  
[16] **Q.** And what is that training?  
[17] **A.** It includes training on the specific type of  
[18] extraction techniques, the use of instrumentation that  
[19] are used in the laboratory, the generation of  
[20] statistics from the profiles generated from the DNA  
[21] samples, as well as report writing and other related  
[22] duties as far as things such as chain of custody and  
[23] other sorts of paperwork-type duties.  
[24] **Q.** About how many hours of on-the-job training did  
[25] you receive?

[1]  
[2] **A.** I don't know how many hours, but there's a  
[3] required six-month period of training at a CODIS  
[4] participating laboratory. "CODIS" meaning Combined DNA  
[5] Index System. Because we submit samples to the  
[6] national database, which is kept by the FBI, so they  
[7] require a six-month period of on-the-job training.  
[8] **Q.** And you have been in your current position for the  
[9] past five years?  
[10] **A.** In the DNA laboratory for about four.  
[11] **Q.** And have you ever testified as an expert in the  
[12] Court of Common Pleas before today?  
[13] **A.** Yes.  
[14] **Q.** And have you qualified as an expert on every one  
[15] of those occasions?  
[16] **A.** Yes.  
[17] **Q.** Have you ever not been qualified?  
[18] **A.** No.  
[19] **Q.** About how many times have you testified as an  
[20] expert?  
[21] **A.** I would say 20.  
[22] **MS. BARALDI:** Your Honor, at this  
[23] point I would offer Mr. Levin as an expert in  
[24] forensic DNA analysis.  
[25] **THE COURT:** Any questions on

[1]  
[2] cross-examination on qualifications?  
[3] **MR. GIULIANI:** I do not, Your Honor.  
[4]  
[5] **THE COURT:** The Court will accept  
[6] Mr. Levin as an expert in DNA forensic analysis  
[7] capable of rendering opinions in the area of his  
[8] expertise.  
[9] Members of the jury, an expert has  
[10] special knowledge or skill in some science, art,  
[11] profession, occupation, or subject that a witness  
[12] acquired by training, education, or experience.  
[13] Now, because an expert has this special, this is  
[14] out of the ordinary knowledge or skill, he may be  
[15] able to supply you jurors with specialized  
[16] information, explanations, and opinions that will  
[17] help you decide the case.  
[18] Regular witnesses are bound by two  
[19] limitations that do not apply to an expert.  
[20] First, regular witnesses generally can testify  
[21] only about things they personally perceive, things  
[22] they saw or heard themselves. And second, regular  
[23] witnesses are not allowed to express opinions  
[24] about matters that require special knowledge or  
[25] skill.

[1]  
[2] By contrast an expert is allowed to  
[3] express an opinion about a matter that is within  
[4] the area of his expertise. Furthermore, while an  
[5] expert may base an opinion on things personally  
[6] perceived, he may also base an opinion based on  
[7] factual information learned from other sources.

[8] If the expert bases an opinion on  
[9] things not personally perceived, he can describe  
[10] the information on which he relies and identify  
[11] its source when explaining the opinion.

[12] Ma'am, you may continue.

[13] - - -

[14] DIRECT EXAMINATION

[15] - - -

[16] **BY MS. BARALDI:**

[17] **Q.** Mr. Levin, what are your duties in the DNA lab?

[18] **A.** They include retrieval of evidence from the  
[19] criminalistics laboratory which is the laboratory that  
[20] does the initial examination of items submitted, in  
[21] addition to extraction of DNA from the samples using  
[22] one of the variety of extraction techniques.

[23] Then in addition, there are other laboratory  
[24] techniques such as quantitation determining the amount  
[25] of DNA in a particular sample, electrophoresis which is

[1]  
[2] separation of the DNA samples for which you we generate  
[3] a DNA profile. And from that profile then I also would  
[4] generate a report and any statistical analysis that  
[5] would be necessary, if they would be needed for that  
[6] particular type of case.

[7] **MS. BARALDI:** If I could have this  
[8] marked as C-29?  
[9] (DNA report marked Commonwealth's Exhibit 29 for  
[10] identification.)

[11] **BY MS. BARALDI:**

[12] **Q.** Mr. Levin what is C-29?

[13] **A.** This is the DNA report, our laboratory  
[14] No. 0770327.

[15] **Q.** And what, if anything, can you tell us about what  
[16] you did in this case?

[17] **A.** In this case, as I mentioned before, I retrieved  
[18] the associated samples, performed DNA extraction on  
[19] them, and through other laboratory procedures I  
[20] generated these profiles, these DNA profiles. And in  
[21] this particular case I also generated statistics  
[22] associated with some of the samples.

[23] **Q.** I want to start you with item No. 1 on your  
[24] report, which was sample No. 24775. What is item No.  
[25] 1?

[1]

[2] **A.** The conclusion?

[3] **Q.** No, what is it?

[4] **A.** Item No. 1 is a swab from a white latex glove,  
[5] rear alley behind 724 West Mifflin?

[6] **Q.** Was any DNA recovered off that glove?

[7] **A.** It was, yes.

[8] **Q.** And did you come to any conclusions regarding that  
[9] DNA?

[10] **A.** Yes, I did.

[11] **Q.** And what was that?

[12] **A.** If I may read the conclusion from the report?

[13] **Q.** Yes.

[14] **A.** Jerry Jean is included as a contributor of the  
[15] major component of the DNA mixture detected as the FGA,  
[16] D8S1179, VWA, Amelogenin, D18S51, D21S11, TH01,  
[17] D3S1358, Penta D, D16S539, D7S820, D13S17, and DS818  
[18] loci in sample No. 24775.

[19] All of those numbers and letters refer to  
[20] particular regions of the DNA that we are testing. So  
[21] in these areas Jerry Jean was included as a contributor  
[22] of the DNA.

[23] **Q.** So those regions of Jerry Jeans' DNA happens to  
[24] match those regions of the latex glove?

[25] **A.** Yes. If we compare it, a reference sample in this

[1]  
[2] case a buccal swab, the swab of the inside of the  
[3] mouth, and from profile that was obtained from that  
[4] swab we compare to the question samples. So that's  
[5] what's being compared in this report.  
[6] **Q.** What is the likelihood of such a match?  
[7] **A.** Well, I can continue the conclusion. The  
[8] frequency of DNA types is 1 in 4466 quadrillion in the  
[9] random unrelated African-American population, 1 in 288  
[10] quintillion in the random unrelated Caucasian  
[11] population, and 1 in 692 quadrillion in the random  
[12] Hispanic population.

[13] If I may continue the conclusion, Jerry Jean also  
[14] cannot be excluded as a contributor of the DNA mixtures  
[15] detected that TPOX, Penta D, and CSFIPO loci. However,  
[16] due to the low intensity of the loci these loci were  
[17] excluded from the statistical analysis.

[18] No further conclusions could be made at this time  
[19] regarding any additional contributors of the DNA  
[20] detected in the sample.

[21] **Q.** As to item No. 2, Sample No. 24776, what was that?

[22] **A.** Again referring to conclusion No. 3 on the  
[23] report. The partial DNA mixture profile of that sample  
[24] itself is item No. 2 was the swab from white latex  
[25] glove in the front vestibule of 720 West Mifflin.

[1]

[2] And the conclusion on that is, the partial DNA  
[3] mixture profile detected in No. 24776 consist of a  
[4] mixture of at least two contributors one of which is  
[5] male. Jerry Jean and John In are excluded as  
[6] contributors of the DNA detected in the sample. No  
[7] further conclusions can be made at this time regarding  
[8] any additional contributors of the DNA detected in this  
[9] sample.

[10] **Q.** As to your sample No. 24777, which was item No. 3,  
[11] the swab from the piece of latex glove on the highway  
[12] on the 600 block of West Mifflin Street, what  
[13] conclusions did you come to?

[14] **A.** This is listed as conclusion No. 4. The DNA taken  
[15] in sample No. 24777 consist of a mixture of three  
[16] contributors, one of which is male. Jerry Jean could  
[17] not be excluded as a partial contributor of the DNA  
[18] detected in this sample. However both DNA types  
[19] possessed were not detected in the Penta E, D18S51,  
[20] CSF1PO, loci. The inability to detect both DNA types  
[21] at these loci could be attributed to the allelic  
[22] dropout. John In excluded as a DNA detected in the  
[23] sample.

[24] No further conclusions could be made at this time  
[25] from the DNA detected in this sample.

[1]  
[2] **Q.** The inability to detect both DNA types at these  
[3] loci could be contributed to allelic dropout, what does  
[4] that mean in English?  
[5] **A.** This sample was, if I remember correctly, was a  
[6] low concentration sample. And when there's a low  
[7] amount of DNA often in one of the steps of the  
[8] procedure, which is amplification. There are some  
[9] regions that won't amplify or won't generate a profile  
[10] because of the level of DNA. So we may get some  
[11] profile of it but because of the low concentration  
[12] those allelic dropout, they will not be amplified.  
[13] **Q.** When you extract, say the piece of the white latex  
[14] glove comes into to criminalistics, what is its  
[15] procedure to extract the DNA?  
[16] **A.** The procedure would be that criminalistics would  
[17] receive the piece of glove or the glove itself and then  
[18] swab it and that swab would be what I would use for  
[19] extraction. And one of the steps after extraction  
[20] which is quantitation.  
[21] **Q.** What's extraction?  
[22] **A.** Extraction is we would take a small section of the  
[23] swab and place it in a tube with a variety of different  
[24] chemicals and enzymes to break down the cells  
[25] themselves and then to remove the purified DNA from

[1]  
[2] it's also tagging these small segments of DNA with  
[3] fluorescent markers. It's a chemical that will give off  
[4] light so that way later in a further step we'll be able  
[5] to visualize these copied steps of DNA, so that would  
[6] be amplification.  
[7] And the reason we do that is because these samples  
[8] have low concentration of DNA to begin with, this will  
[9] allow to us increase the DNA of these particular  
[10] regions to make it easy for visualization.  
[11] **Q.** Now, with regard to sample No. 2778, item No. 4,  
[12] which is a swab of the Zig Zauer pistol placed on  
[13] Property Receipt No. 9006283, what, if any, conclusion  
[14] did you come to make?  
[15] **A.** This is listed as conclusion No. 5. The partial  
[16] DNA mixture profile consist of a mixture from at least  
[17] two contributors. The major component originates from  
[18] an unknown male. Jerry Jean and John In are excluded  
[19] as contributors in the DNA detected in the sample. No  
[20] further conclusions can be made at this time regarding  
[21] any contributors detected in this sample.  
[22] **Q.** And as for your sample No. 24779, item No. 5 which  
[23] would be the swab of the other pistol placed on  
[24] Property Receipt No. 9006283, what if any conclusions  
[25] did you draw?

[1]  
[2] that sample, and that would be then our DNA extract, a  
[3] purified sample of DNA.  
[4] And then that sample would be sent for a  
[5] quantitation where we would take small amount of that  
[6] sample and determine the amount of that DNA in a  
[7] particular sample, and that's how we would figure out a  
[8] low level or concentration of DNA sample or not.  
[9] **Q.** And after that's done, what's the next step?  
[10] **A.** The next step after that -- if it happens to be a  
[11] low level sample, the next step would be concentration.  
[12] If it's assembled with a high concentration of DNA,  
[13] then we would dilute it down to a particular  
[14] concentration which is ideal for the following step.  
[15] So after it was concentrated or diluted, the next  
[16] step would be amplification where we would amplify  
[17] these specific regions that are in the report, 16 loci,  
[18] 16 allelic. Fifteen of them being from -- one of them  
[19] being a sex determinant the X Y chromosomes. And then  
[20] after we do that amplification --  
[21] **Q.** What do you mean by "amplification?"  
[22] **A.** Amplification is where we amplify or increase the  
[23] number of copies of DNA from these 16 particular areas  
[24] of the DNA.  
[25] And in addition to that it's not just copying,

[1]  
[2] **A.** This would be conclusion six of the report. The  
[3] partial DNA mixture profile detected in No 24779,  
[4] consisted of a mixture of two contributors one of which  
[5] is male. Jerry Jean and John In are excluded as  
[6] contributors in the DNA detected in the sample. No  
[7] further conclusions made at this time regarding any  
[8] additional contributors in the DNA in this sample.  
[9] **Q.** And as to No. 24760 and 24781 both of which were  
[10] swabs taken from live rounds one from each pistol,  
[11] what, if any, conclusions did you draw?  
[12] **A.** I believe you might have 24780?  
[13] **Q.** Yes, I'm sorry.  
[14] **A.** Both of those are listed in conclusion 7. No DNA  
[15] results were listed in samples No. 24780 and 24781.  
[16] **Q.** How is it if I am handling this pen, what is the  
[17] DNA that would be on there?  
[18] **A.** It would be expected possibly that we would find  
[19] your DNA on that pen.  
[20] **Q.** What is my DNA in the form of that would be on  
[21] this pen?  
[22] **A.** It would be from what are called epithelial cells,  
[23] skin cells that would scrape off on the surface of the  
[24] pen.  
[25] **Q.** Is it possible if I touch the pen and place the



[1]  
[2] pen down and my DNA is not on it?  
[3] **A.** It's a possibility.  
[4] **Q.** How does that happen?  
[5] **A.** The surface of the pen itself, whatever item that  
[6] is itself touching, if it's very smooth it's less  
[7] likely there will be epithelial cells on the pen. In  
[8] addition it depends on the individual touching it.  
[9] Some people would leave what they have what we call  
[10] shedders, they shed more cells than others. They may  
[11] leave more skin cells on the pen, some they might not.  
[12] **Q.** If I am holding this pen and wearing latex gloves,  
[13] would you expect to find my DNA on that pen?  
[14] **A.** I would not.  
[15] **MS. BARALDI:** I don't have any  
[16] further questions.  
[17] **THE COURT:** Mr. Giuliani?  
[18] **MR. GIULIANI:** Yes, Your Honor.  
[19] ---  
[20] **CROSS-EXAMINATION**  
[21] ---  
[22] **BY MR. GIULIANI:**  
[23] **Q.** Mr. Levin, how are you?  
[24] **A.** Good afternoon.  
[25] **Q.** I am going to show you what has been marked as

[1]  
[2] Commonwealth's Exhibit 14. This is the Zig Zauer  
[3] pistol which the jury heard was found inside of a white  
[4] Altima and from which a swab was taken.  
[5] **A.** Yes.  
[6] **Q.** Now, you just told the jurors that one of the  
[7] things that could possibly lead to a person touching an  
[8] item and not leaving any DNA would be the smoothness of  
[9] the item that was touched?  
[10] **A.** That's correct.  
[11] **Q.** As well as the second factor which is if someone  
[12] is not a shedder, right?  
[13] **A.** Yes.  
[14] **Q.** You are familiar with firearms in your line of  
[15] work, right?  
[16] **A.** Not particularly, but somewhat.  
[17] **Q.** You don't have to touch this, but take a look at  
[18] the grip of the gun. Would you mind touching that and  
[19] rubbing that?  
[20] **A.** (Witness complies.)  
[21] **Q.** Would you agree with me that the grip on this  
[22] particular firearm is rough, it's not smooth?  
[23] **A.** That's correct.  
[24] **Q.** So that would be a surface that if someone was  
[25] going to handle that it would be more likely DNA would

[1]  
[2] rub off on?  
[3] **A.** As opposed to a smooth surface, yes.  
[4] **Q.** So if we could go over your report briefly. Item  
[5] No. 24780 and 24781 are the rounds that were taken from  
[6] both guns and you found no detectable DNA on either  
[7] round?  
[8] **A.** That's correct.  
[9] **Q.** And that's not unusual?  
[10] **A.** Not unusual.  
[11] **Q.** No. 24779, that's the Heckler & Koch .9 mm  
[12] pistol. And basically what you conclude there's three  
[13] contributors, three different people's DNA on that gun,  
[14] correct?  
[15] **A.** Yes.  
[16] **Q.** At least one of which is male, you are able to  
[17] tell that?  
[18] **A.** That is correct.  
[19] **Q.** But you're also able to specifically exclude John  
[20] In here as being the male that contributed to that?  
[21] **A.** That's correct.  
[22] **Q.** And Jerry Jean?  
[23] **A.** That's correct.  
[24] **Q.** And then there's the gun, the Zig Zauer I just  
[25] showed you, that's No. 24778. And your conclusion is

[1]  
[2] that there is DNA on there, correct?  
[3] **A.** That's correct.  
[4] **Q.** And it comes from a mixture of two people, right?  
[5] **A.** Yes.  
[6] **Q.** The major component originates from an unknown  
[7] male, correct?  
[8] **A.** That's correct.  
[9] **Q.** And you exclude John In as being the person that  
[10] contributed to that?  
[11] **A.** Yes.  
[12] **Q.** And Jerry Jean?  
[13] **A.** Yes.  
[14] **Q.** The latex glove found on the highway at 6th and  
[15] Mifflin, that's 24777, you say there are at least three  
[16] people contributing to it. And what you say is Jerry  
[17] Jean might be one, but you don't know because of the  
[18] amplification process that you spoke of and there was a  
[19] problem with not enough DNA, right?  
[20] **A.** Because of the complexity of the mixture.  
[21] **Q.** So you can't rule him out?  
[22] **A.** Can't be excluded.  
[23] **Q.** He's excluded, John In?  
[24] **A.** Yes, that's correct.  
[25] **Q.** Okay.

[1]  
[2] Now, 24776, that's the white latex glove found in  
[3] the vestibule of 720 Mifflin. Your conclusion is  
[4] there's two people whose DNA is on that glove, one of  
[5] them is male, correct?  
[6] **A.** That's correct.  
[7] **Q.** Neither of those people are John In or Jerry Jean?  
[8] **A.** That's correct.  
[9] **Q.** So we have an unknown male whose DNA was found on  
[10] the glove inside the vestibule just outside the front  
[11] door of this property.  
[12] **A.** I am assuming that's where it is on that sample.  
[13] **Q.** Now, that glove found on the back alley, that's  
[14] the last item. The glove in the alley, you talk about  
[15] frequencies of 1 in 466 quadrillion. How many zeros  
[16] are in a quadrillion?  
[17] **A.** I believe there's 18.  
[18] **Q.** Is that more or less than a quintillion?  
[19] **A.** A quintillion is a thousand more.  
[20] **Q.** So that glove was touched by Jerry Jean, no doubt  
[21] about it.  
[22] **A.** I would say yes.  
[23] **Q.** And, again, conclusion No. 1 on this report, John  
[24] In is excluded as a contributor of the DNA in the  
[25] samples I just read to you?

[1]  
[2] **A.** That's correct.  
[3] **MR. GIULIANI:** Thank you, sir.  
[4] **THE COURT:** Any redirect?  
[5] **MS. BARALDI:** I do. I just have one  
[6] question.  
[7] ---  
[8] REDIRECT EXAMINATION  
[9] ---  
[10] **BY MS. BARALDI:**  
[11] **Q.** Say I handled this gun and after I handled the gun  
[12] Mr. Giuliani handles the gun, is it possible my skin  
[13] cells would have been wiped off by a subsequent person?  
[14] **A.** It is possible.  
[15] **MS. BARALDI:** I have no further  
[16] questions.  
[17] **THE COURT:** Anything else?  
[18] ---  
[19] RECROSS-EXAMINATION  
[20] ---  
[21] **BY MR. GIULIANI:**  
[22] **Q.** Well, for me using counsel's suggestion, would it  
[23] not be true that I would have to, in essence, touch the  
[24] gun in the exact same place basically and in such a  
[25] fashion to erase all of her cells off that gun?

[1]  
[2] **A.** You would have to make contact with wherever her  
[3] skin cells are.  
[4] **Q.** Now, I am not going to do it, and for the record,  
[5] I am holding up Commonwealth 14. Let's assume I had  
[6] that weapon. Let's say I gripped it in away that I had  
[7] my hand all the way around the grip and the finger on  
[8] the trigger.  
[9] **A.** Yes.  
[10] **Q.** For someone else to touch that and grip that  
[11] weapon in such a fashion as to completely eradicate my  
[12] DNA, would they have to grab it the same way, wipe it  
[13] off clean or something like that?  
[14] **A.** If you touch the same area, it might wipe it off,  
[15] but I can't say how a person touches an object. If you  
[16] touch exactly where they would be holding, then you  
[17] might wipe it off, but the gripping items is not quite  
[18] my expertise. I would say if you touched exact where  
[19] the person touched or in a general area then that would  
[20] wipe off wherever the previous person's skin cells  
[21] would have been.  
[22] **MR. GIULIANI:** That's all I have.  
[23] **THE COURT:** Either one of you may  
[24] object to this question.  
[25] Are you telling this jury that each

[1]  
[2] time a person grips a handle of a gun, he or she  
[3] leaves the DNA on that gun?  
[4] **THE WITNESS:** Yes. That possibility  
[5] is very high, yes.  
[6] **THE COURT:** Thank you. You may step  
[7] down.  
[8] (Witness excused.)  
[9] ---  
[10] **THE COURT:** You may continue.  
[11] **MS. BARALDI:** Your Honor, that's the  
[12] Commonwealth's final witness. There are a number  
[13] of stipulations, if I may at this time.  
[14] **THE COURT:** Ladies and gentlemen,  
[15] you will recall that I instructed you as to what  
[16] and how you should consider stipulated evidence.  
[17] There are stipulations, Counsel?  
[18] **MS. BARALDI:** Yes.  
[19] **MR. GIULIANI:** Yes, Your Honor.  
[20] **THE COURT:** You may offer your  
[21] stipulations.  
[22] **MS. BARALDI:** If Police Officer  
[23] Timothy Foley were called to testify, he would  
[24] testify he was working with his partner Sergeant  
[25] Liczbinski on March 7th, 2007. That he recovered

[1] a blue Addidas sweatshirt and placed it on  
[2] Property Receipt No. 2691195. The same officer  
[3] would also testify that he recovered the blue  
[4] camouflage hoodie and placed that on Property  
[5] Receipt No. 2691026. As well as this green hoodie  
[6] placed on Property Receipt No. 2691025 that he  
[7] submitted it to evidence and retrieved from  
[8] evidence and brought it here.

[9] So stipulated?

[10] **MR. GIULIANI:** So stipulated, Your  
[11] Honor.

[12] **MS. BARALDI:** And finally, if Police  
[13] Officer Leonard Johnson were called to testify  
[14] before you, he would tell you he works in the  
[15] Police Department Firearms Identification Unit and  
[16] that he test-fired both of the weapons that  
[17] everyone has seen, which was specifically placed  
[18] -- which were marked as C-14 and C-15, that he's  
[19] qualified to do so, and that both of those pistols  
[20] were operable at the time they were submitted to  
[21] firearms identification.

[22] **MR. GIULIANI:** So stipulated, Your  
[23] Honor.

[24] **THE COURT:** Thank you.  
[25]

[1] **MS. BARALDI:** And, Your Honor, with  
[2] that, the Commonwealth rests.

[3] **THE COURT:** All right. How do you  
[4] wish to proceed, sir?

[5] **MR. GIULIANI:** May we have a  
[6] five-minute break, Your Honor?

[7] **THE COURT:** Yes. Let's take short  
[8] recess.  
[9]

[10] **THE COURT CRIER:** Please remain  
[11] seated while the jury exits the courtroom.

[12] (Jury departs the courtroom at 4:10 p.m.)

[13] **MR. GIULIANI:** At this point in time  
[14] the defense would make a motion of acquittal on  
[15] one count of the victims for robbery, the victim  
[16] would be Dina Khem. The evidence set forth by the  
[17] Commonwealth the individual in the light most  
[18] favorable to the Commonwealth, the individual who  
[19] was my client was in the basement, has her father  
[20] down the steps. When she comes down the steps, he  
[21] points a gun at her. And the evidence is that he  
[22] tells her to "shut the fuck up."

[23] I specifically asked her if any  
[24] money was demanded from her or items, I believe  
[25] counsel asked the same question, and she

[1] repeatedly said no. And for that basis I would  
[2] say there is insufficient evidence to prove  
[3] attempted theft with regards to that witness.  
[4] Everything else would be a question for the jury,  
[5] so I that would be my motion.

[6] **MS. BARALDI:** I don't have any  
[7] argument.

[8] **THE COURT:** Motion granted.

[9] **MS. BARALDI:** Your Honor, I  
[10] apologize, I rested prior to entering my exhibits.

[11] **THE COURT:** Do you wish to reopen?

[12] **MS. BARALDI:** I wish to reopen.

[13] **THE COURT:** Motion granted. How  
[14] many exhibits?

[15] **MS. BARALDI:** C-1 through C-29, I  
[16] believe.

[17] **THE COURT:** We are about to recess  
[18] for the day. The Commonwealth having rested the  
[19] defense has not rested, however, both attorneys  
[20] know what the remaining evidence will be and we  
[21] have decided to have an informal charging  
[22] conference, and then a formal conference at the  
[23] end of the defendant's case.

[24] Is that agreed?  
[25]

[1] **MR. GIULIANI:** Yes, Your Honor.  
[2] **MS. BARALDI:** Yes, Your Honor.

[3] **THE COURT:** You can bring them out.  
[4] **THE COURT CRIER:** Please remain

[5] seated while the jury enters the courtroom.  
[6] (Jury enters the courtroom at 4:30 p.m.)

[7] **THE COURT:** Ladies and gentlemen, if  
[8] you would be so kind as to remain standing, this  
[9] should not take very long. It's 4:30 and the  
[10] decision is we should recess today. And I will  
[11] tell you that we expect tomorrow morning. The  
[12] case, at some point tomorrow morning, the case  
[13] will be submitted to you jurors for your  
[14] deliberations. However, the case is not  
[15] concluded, so please keep an open mind, don't  
[16] discuss the case with anyone, not amongst  
[17] yourselves. Enjoy your evening and we'll see you  
[18] tomorrow, at 9 o'clock tomorrow morning.

[19] **THE COURT CRIER:** Please remain  
[20] seated while the jurors exit the courtroom.

[21] (Jury departs the courtroom at 4:32 p.m.)

[22] (Court adjourned.)  
[23]  
[24]  
[25]

[1]  
[2] I hereby certify that the proceedings  
[3] and evidence are contained fully and accurately in the  
[4] notes taken by me on the trial of the above cause, and  
[5] this copy is a correct transcript of the same.

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[11] Samanda Rios  
[12] Court Reporter  
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